

INSTRUCTIONS
TO THE
ENVOYS EXTRAORDINARY
AND
MINISTERS PLENIPOTENTIARY
FROM THE
United States of AMERICA,
TO THE
FRENCH REPUBLIC;
THEIR
LETTERS OF CREDENCE AND FULL POWERS,
AND THE
DISPATCHES
RECEIVED FROM THEM
RELATIVE TO THEIR MISSION.

PUBLISHED BY THE SECRETARY OF STATE,
In conformity with the Resolution of Congress, of the 22d June 1798.



PHILADELPHIA:

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South Ninth-Street.

Fifth Congress of the United States,
AT THE SECOND SESSION.

RESOLVED by the Senate and House of Representatives of the United States of America, in Congress assembled, That the Secretary of State be, and he hereby is authorized and directed to cause to be printed a number of copies, not exceeding ten thousand, of the instructions to the envoys extraordinary and ministers plenipotentiary of the United States to the French Republic, and of all the dispatches hitherto received from them, and which have been communicated by the President of the United States to both Houses of Congress; and to cause the same to be distributed, gratis, throughout the United States, and particularly in such parts thereof wherein the dissemination of information, through the medium of news-papers, is most obstructed.

JONATHAN DAYTON,

Speaker of the House of Representatives.

TH: JEFFERSON,

*Vice-President of the United States, and
President of the Senate.*

Approved—June 22, 1798.

JOHN ADAMS,

President of the United States.

In the House of Representatives of the United States,

Monday, the 2d of April, 1798.

RESOLVED, That the President of the United States be requested to communicate to this House, the instructions and dispatches from the envoys extraordinary from the United States to the French Republic mentioned in his message of the nineteenth ultimo.

Extract from the Journal.

JONATHAN W. CUNY, Clerk.



tion, is the reciprocal guaranty, in the eleventh article of the treaty of alliance. This guaranty we are perfectly willing to renounce. The guaranty, by France, of the liberty, sovereignty, and independence of the United States, will add nothing to our security ; while, on the contrary, our guaranty of the possessions of France in America, will perpetually expose us to the risque and expense of war, or to disputes and questions concerning our national faith.

When Mr. Genet was sent as the minister of the French Republic to the United States, its situation was embarrassed, and the success of its measures problematical. In such circumstances it was natural that France should turn her eye to the mutual guaranty : and accordingly it was required, in Mr. Genet's instructions, to be " an essential clause in the new treaty," which he was to propose : and on the ground " that it nearly concerned the peace and prosperity of the French nation, that a people whose resources increase beyond all calculation, and whom nature had placed so near their rich colonies, should become interested, by their own engagements, in the preservation of those islands." But at this time, France, powerful by her victories, and secure in her triumphs, may less regard the reciprocal guaranty with the United States, and be willing to relinquish it. As a substitute for the reciprocal guaranty, may be proposed a mutual renunciation of the same territories and possessions, that were subjects of the guaranty and renunciation in the sixth and eleventh articles of the treaty of alliance. Such a renunciation on our part, would obviate the reason assigned in the instruction to Mr. Genet before cited, *of future danger from the rapidly growing power of the United States*. But if France insists on the mutual guaranty, it will be necessary to aim at some modification of it.

The existing engagement is of that kind which, by writers on the law of nations, is called a general guaranty ; of course the *casus fœderis* can never occur except in a *defensive* war. The nature of this obligation is understood to be, that when a war *really and truly defensive* exists, the engaging nation is bound to furnish an *effectual and adequate defence*, in co-operation with the power attacked : whence it follows, that the nation *may* be required, in some circumstances, to bring forward its whole force. The nature and extent of the succours demandable not being ascertained, engagements of this kind are dangerous on account of their uncertainty : there is always hazard of doing too much or too little, and of course of being involved in involuntary rupture.

Specific succours have the advantage of certainty, and are less liable to occasion war. On the other hand, a general guaranty allows a latitude for the exercise of judgment and discretion.

On the part of the United States, instead of troops or ships of war, it will be convenient to stipulate for a moderate sum of money or quantity of provisions, at the option of France : the provisions to be delivered at our own ports, in any future *defensive* wars. The sum of money, or its value in provisions, ought not to exceed two hundred thousand dollars a year, during any such wars. The reciprocal stipulation, on the part of France, may be to furnish annually the like sum of money, or an equivalent in military stores and cloathing for troops, at the option of the United States, to be delivered in the ports of France.

Particular caution, however, must be used, in discussing this subject, not to admit any claims, on the ground of the guaranty, in relation to the existing war; as we do not allow that the *casus fœderis* applies to it. And if the war should continue after your arrival in France, and the question of the guaranty should not be mentioned on her part, you may yourselves be silent on the subject, if you deem it most prudent.

It will be proper here to notice such articles of the treaty of amity and commerce, between the United States and France, as have been differently construed by the two governments, or which it may be expedient to amend or explain.

ARTICLE 2. The assent of the United States, in their treaty with Great Britain, to the doctrine of the law of nations respecting enemies' property in neutral ships, and ship timber and naval stores, and in some cases provisions, as contraband of war, the French government has chosen to consider as a voluntary *grant of favours*, in respect to commerce and navigation, to Great Britain, and that consequently the same favours have become common to France. This construction is so foreign from our ideas of the meaning and design of this article, it shews the necessity of reviewing all the articles, and however clear they may appear, of attempting to obviate future misconstructions, by declaratory explanations or a change of terms.

ARTICLE 5. France has repeatedly contended, that the imposition of fifty per cent. per ton, on French vessels arriving in the United States, is contrary to the fifth article of the treaty. The arguments in support of this pretension are unknown; but it is presumed to be unfounded. The reciprocal right of laying "duties or imposts of what nature soever," equal to those imposed on the most favoured nations, and without any other restrictions, seems to be clearly settled by the third and fourth articles. The fifth article appears to have been intended merely to define or qualify the rights of American vessels in France. It is however desirable that the question be understood, and all doubt concerning it removed. But the introduction of a principle of discrimination between the vessels of different foreign nations, and in derogation of the powers of Congress to raise revenue by uniform duties on any objects whatever, cannot be hazarded. The naturalization of French vessels will of course be considered as inadmissible.

ARTICLE 8. The stipulation of doing us good offices, to secure peace to the United States with the Barbary powers, has never yet procured us any advantage. If therefore the French Government lays any stress on this stipulation, as authorizing a claim for some other engagement from us in favour of France, it may be abandoned; and especially if its abrogation can be applied as a set-off against some existing French claim.

ARTICLE 14. If the alterations already proposed are made in the 23d and 24th articles, then the 14th article, as before observed, must be abolished.

ARTICLE 17th. The construction put on this article by the government of the United States is conceived to be reasonable and just, and is therefore to be insisted on. The tribunals of the respective countries will consequently be justified in taking cognizance of all captures made

MESSAGE of the PRESIDENT of the UNITED STATES, to both
Houses of CONGRESS.

Gentlemen of the Senate, and

Gentlemen of the House of Representatives,

IN compliance with the request of the House of Representatives, expressed in their resolution of the second of this month, I transmit to both Houses, *those instructions to and dispatches from, the Envoys Extraordinary of the United States to the French Republic*, which were mentioned in my message of the nineteenth of March last, omitting only some names, and a few expressions descriptive of the persons.

I request that they may be considered in confidence, until the members of Congress are fully possessed of their contents, and shall have had opportunity to deliberate on the consequences of their publication; after which time I submit them to your wisdom.

JOHN ADAMS.

United States, }
April 3d, 1798. }

INSTRUCTIONS

To Charles Cotesworth Pinckney, John Marshall, and Elbridge Gerry, Esquires,
Envoys Extraordinary and Ministers Plenipotentiary, from the United States of
America to the French Republic.

GENTLEMEN,

IT is known to you, that the people of the United States of America entertained a warm and sincere affection for the people of France, ever since their arms were united in the war with Great Britain, which ended in the full and formal acknowledgement of the Independence of these States. It is known to you, that this affection was ardent, when the French determined to reform their government and establish it on the basis of liberty; that liberty in which the people of the United States were born, and which in the conclusion of the war above mentioned was finally and firmly secured. It is known to you, that this affection rose to enthusiasm, when the war was kindled between France and the powers of Europe, which were combined against her for the

avowed purpose of restoring the monarchy; and every where vows were heard for the success of the French arms. Yet during this period France expressed no wish that the United States should depart from their neutrality. And while no duty required us to enter into the war, and our best interests urged us to remain at peace, the government determined to take a neutral station: which being taken, the duties of an impartial neutrality became indispensably binding. Hence the government early proclaimed to our citizens the nature of those duties and the consequences of their violation.

The minister of France, Mr. Genet, who arrived about this time, by his public declarations, confirmed the idea, that France did not desire us to quit the ground we had taken. His measures, however, were calculated to destroy our neutrality and to draw us into the war.

The principles of the proclamation of neutrality, founded on the law of nations, which is the law of the land, were afterwards recognized by the National Legislature, and the observance of them enforced by specific penalties, in the act of Congress passed the fifth of June 1794. By these principles and laws the acts of the executive and the decisions of the courts of the United States were regulated.

A government thus fair and upright in its principles and just and impartial in its conduct, might have confidently hoped to be secure against formal official censure: but the United States have not been so fortunate. The acts of their government, in its various branches, though pure in principle and impartial in operation, and conformable to their indispensable rights of sovereignty, have been assigned as the cause of the offensive and injurious measures of the French Republic. For proofs of the former, all the acts of the government may be vouched; while the aspersions so freely uttered by the French ministers, the refusal to hear the minister of the United States specially charged to enter on amicable discussions on all the topics of complaint, the decrees of the Executive Directory and of their agents, the depredations on our commerce and the violences against the persons of our citizens, are evidences of the latter. These injuries and depredations will constitute an important subject of your discussions with the government of the French Republic; and for all these wrongs you will seek redress.

In respect to the depredations on our commerce, the principal objects will be, to agree on an equitable mode of examining and deciding the claims of our citizens, and the manner and periods of making them compensation. As to the first, the seventh article of the British and the twenty-first of the Spanish treaty present approved precedents to be adopted with France. The proposed mode of adjusting those claims, by commissioners appointed on each side, is so perfectly fair, we cannot imagine that it will be refused. But when the claims are adjusted, if payment in specie cannot be obtained, it may be found necessary to agree, in behalf of our citizens, that they shall accept public securities, payable with interest at such periods as the state of the French finances shall render practicable. These periods you will endeavour as far as possible to shorten.

Not only the recent depredations, under colour of the decrees of the Directory of the second of July 1796 and the second of March 1797, or under the decrees of their agents, or the illegal sentences of their tribunals, but all prior ones, not already satisfactorily adjusted, should be put

in this equitable train of settlement. To cancel many or all of the last mentioned claims, might be the effect of the decree of the Executive Directory of the second of March last, reviving the decree of the 9th of May 1793: but this being an *ex post facto* regulation, as well as a violation of the treaty between the United States and France, cannot be obligatory on the former. Indeed the greater part, probably nearly all the captures and confiscations in question, have been committed in direct violation of that treaty or of the law of nations. But the injuries arising from the capture of enemies property in vessels of the United States, may not be very extensive; and if for such captured property the French government will, agreeably to the law of nations, pay the freight and reasonable demurrage, we shall not, on this account any farther contend. But of ship timber and naval stores taken and confiscated by the French, they ought to pay the full value; because our citizens continued their traffic in those articles under the faith of the treaty with France. On these two points we ought to expect that the French government will not refuse to do us justice: and the more, because it has not, at any period of the war, expressed its desire that the commercial treaty should in these respects be altered.

Besides the claims of our citizens for depredations on their property, there are many arising from express contracts made with the French government or its agents, or founded on the seizure of their property in French ports. Other claims have arisen from the long detention of a multitude of our vessels in the ports of France. The wrong hereby done to our citizens was acknowledged by the French government, and in some, perhaps in most of the cases, small payments towards indemnifications have been made: the residue still remains to be claimed.

All these just demands of our citizens will merit your attention. The best possible means of compensation must be attempted. These will depend on what you shall discover to be practicable in relation to the French finances. But an exception must be made in respect to debts due to our citizens by the contracts of the French government and its agents, if they are comprehended in any stipulation; and an option reserved to them, jointly or individually, either to accept the means of payment which you shall stipulate, or to resort to the French government, directly, for the fulfilment of its contracts.

Although the reparation for losses sustained by the citizens of the United States, in consequence of irregular or illegal captures or condemnations, or forcible seizures or detentions, is of very high importance, and is to be pressed with the greatest earnestness, yet it is not to be insisted on as an indispensable condition of the proposed treaty. You are not, however, to renounce these claims of our citizens, nor to stipulate that they be assumed by the United States as a loan to the French government.

In respect to the alterations of the commercial treaty with France, in the two cases which have been principal subjects of complaint on her part, viz. enemies property in neutral ships, and the articles contraband of war; although France can have no right to claim the annulling of stipulations at the moment when by both parties they were originally intended to operate; yet if the French government press for alterations, the President has no difficulty in substituting the principles of the law of nations, as stated in the 17th and 18th articles of our commercial treaty

with Great Britain, to those of the 23d and 24th articles of our commercial treaty with France : and in respect to provisions, and other articles not usually deemed contraband, you are to agree only on a temporary compromise, like that in the 18th article of the British treaty, and of the same duration. If however, in order to satisfy France *now she is at war*, we change the two important articles before mentioned, then the 14th article of the French treaty, which subjects the property of the neutral nation found on board enemies ships to capture and condemnation, must of course be abolished.

We have witnessed so many erroneous constructions of the treaty with France, even in its plainest parts, it will be necessary to examine every article critically, for the purpose of preventing, as far as human wisdom can prevent, all future misinterpretations. The kind of documents necessary for the protection of the neutral vessels should be enumerated and minutely described ; the cases in which a sea-letter should be required may be specified ; the want of a sea-letter should not of itself be a cause of confiscation, where other reasonable proof of property is produced ; and where such proof is furnished, the want of a sea-letter should go no further than to save the captor from damages for detaining and bringing in the neutral vessel. The proportion of the vessel's crew which may be foreigners should be agreed on. Perhaps it will be expedient to introduce divers other regulations conformably to the marine laws of France. Whenever these are to operate on the commerce of the United States, our safety requires that, as far as possible, they be fixed by treaty. And it will be desirable to stipulate against any *ex post facto law* or regulation, under any pretence whatever.

Great Britain has often claimed a right, and practised upon it, to prohibit neutral nations carrying on a commerce with her enemies which had not been allowed in time of peace. On this head, it will be desirable to come to an explicit understanding with France ; and, if possible, to obviate the claim by an express stipulation.

Such extensive depredations have been committed on the commerce of neutrals, and especially of the United States, by the citizens of France, under pretence that her enemies (particularly Great Britain) have done the same things, it will be desirable to have it explicitly stipulated, that the conduct of an enemy towards the neutral power shall not authorize or excuse the other belligerent power in any departure from the law of nations or the stipulations of the treaty : especially that the vessels of the neutral nation shall never be captured or detained, or their property confiscated or injured, because bound to or from an enemy's port, except the case of a blockaded port, the entering into which may be prevented according to the known rule of the law of nations. And it may be expedient to define a blockaded place or port to be one actually invested by land or naval forces, or both, and that no *declaration* of a blockade shall have any effect without such actual investment. And no commercial right whatever should be abandoned which is secured to neutral powers by the European law of nations.

The foregoing articles being those which the French government has made the ostensible grounds of its principal complaints, they have naturally been first brought into view. But the proposed alterations and arrangements suggest the propriety of revising all our treaties with France. In such revision, the first object that will attract your atten-

within their respective jurisdictions ; or by illegal privateers ; and those of one country will be deemed illegal which are fitted out in the country of the other remaining neutral : seeing to permit such arming would violate the neutral duties of the latter.

It will be expedient to fix explicitly the reception to be given to *public ships of war* of all nations. The French Ministers have demanded, that the public ships of the enemies of France, which at any time, and in any part of the world, had made prize of a French vessel, should be excluded from the ports of the United States ; although they brought in no prize with them. In opposition to this demand, we have contended that they were to be excluded only when they came in with French prizes. And the kind of asylum to be afforded in all other circumstances, is described in Mr. Jefferson's Letter to Mr. Hammond, dated the 9th of September 1793, in the following words : " Thus then, the *public ships of war* of both nations [English and French] enjoy a perfect equality in our ports ; 1st, in cases of urgent necessity ; 2d, in cases of comfort or convenience ; and 3d, in the time they choose to continue." And such shelter and accommodation are due to the public ships of all nations, on the principle of hospitality among friendly nations.

It will also be expedient explicitly to declare that the right of asylum stipulated for the armed vessels of France and their prizes, gives no right to make sale of those prizes.

But when prize ships are so disabled as to be incapable of putting to sea again, until refitted, and when they are utterly disabled, some provision is necessary relative to their cargoes. Both cases occurred last year. The government permitted, though with hesitation and caution, the cargoes to be unloaded, one of the vessels to be repaired, and part of the prize goods sold, to pay for the repairs, and the cargo of the vessel that was found unfit ever to go to sea again, was allowed to be exported as *prize goods*, even in neutral bottoms. The doubts on these occasions arose from the 24th article of the British treaty, forbidding the sale of the prizes of privateers, or the exchanging of the same in any manner whatever. But as French prizes were entitled to an asylum in our ports, it was conceived to be a reasonable construction of it, to allow of such proceedings as those above mentioned, to prevent the total loss of vessels and cargoes. The 25th article of the British treaty demands attention ; as it is therein stipulated, that no future treaty shall be made that shall be inconsistent with that or the 24th article. Another doubt arose, whether the British treaty did not, in good faith, require the prohibition of the sale of prizes made by the *National ships* of France, as well as of those made by her privateers ; especially seeing our treaty with France gave her no right to sell any prizes whatever. but upon the whole, it was conceived that the United States having before allowed the sale of such prizes, and the prohibition in the 24th article of the treaty being distinctly pointed against the sale of the prizes of *Privateers*, it was thought proper to permit the former practice to continue, until the Executive should make and publish a prohibition of the sale of all prizes, or that Congress should pass a prohibitory law.

ARTICLE 22d. If in new modelling the treaty with France, the total prohibition of the sale of prizes in the ports of the party remaining neutral should not be agreed on, at least the right of each power to make at its

pleasure such prohibition, whether they are prizes of National ships or privateers, should be acknowledged, for the reason more than once suggested—to prevent a repetition of claims upon unfounded constructions; such as under the present article, that a *prohibition* to an *enemy* of either party, is a *grant* to the *other* of the thing forbidden.

ARTICLES 23d and 24th. These have been already considered, and the alterations proposed have been mentioned.

There have been so many unjust causes and pretences assigned for capturing and confiscating American vessels, it may perhaps be impossible to guard against a repetition of them in any treaty which can be devised. To state the causes and pretences that have been already advanced by the Government of France, its agents and tribunals, as the grounds of the capture and condemnation of American vessels and cargoes, would doubtless give pain to any man of an ingenuous mind, who should be employed on the part of France to negotiate another treaty, or a modification of the treaties which exist. It is not desired therefore, to go farther into detail on these matters, than shall be necessary to guard, by explicit stipulations, against future misconstructions and the mischiefs they will naturally produce.

Under pretence that certain ports were surrendered to the English by the treachery of the French and Dutch inhabitants, Victor Hugues and Lebas, the special agents of the Executive Directory, at Guadaloupe, have declared that all neutral vessels bound to or from such ports shall be good prize.

Under the pretence that the British were taking all neutral vessels bound to or from French ports, the French agents at St. Domingo (Santhonax and others) decreed that all *American* vessels bound to or from English ports, should be captured; and they have since declared such captured vessels to be good prize. The French consuls in Spain have, on the same ground, condemned a number of American vessels, merely because they were destined to, or coming from, an English port.

Under the pretence, that the sea-letters or passports prescribed by the commercial treaty for the mutual advantage of the merchants and navigators of the two nations, to save their vessels from detention and other vexations, when met with at sea, by presenting so clear a proof of the property, are an indispensable document to be found on board, the French confiscate American vessels destitute of them, even when they acknowledge the property to be American.

Because horses and their military furniture, when destined to any enemy's port, are by the 24th article of the commercial treaty declared contraband, and as such by themselves only liable to confiscation, Hugues and Lebas decreed all *neutral vessels*, having horses or any other contraband goods on board, should be good prize; and they accordingly condemned vessels and cargoes.

The ancient ordinances of the French monarchs required a variety of papers to be on board neutral vessels, the want of any one of which is made a cause of condemnation; although the 25th article of the commercial treaty mentions what certificates shall accompany the merchant vessels and cargoes of each party, and which, by every reasonable construction, ought to give them protection.

It will therefore be advisable to guard against abuses by descending to particulars: to describe the ships papers which shall be required, and to

declare that the want of any other shall not be a cause for confiscation: to fix the mode of manning vessels as to the officers, and the proportion of the crews who shall be citizens; endeavouring to provide, in respect to American vessels, that more than one third may be foreigners. This provision will be important to the Southern states, which have but few native seamen.

The marine ordinances of France will show what regulations have been required to be observed by allied as well as neutral powers in general to ascertain and secure the property of neutrals. Some of these regulations may be highly proper to be adopted; while others may be inconvenient and burthensome. Your aim will be to render the documents and formalities as few and as simple as will consist with a fair and regular commerce.

ARTICLES 25 and 27. These two articles should be rendered conformable to each other. The 27th says, that after the exhibition of the *passport*, the vessel shall be allowed to pass without molestation or search, without giving her chase, or forcing her to quit her intended course. The 25th requires that besides the *passport*, vessels shall be furnished with certain *certificates*, which of course must also be exhibited. It will be expedient to add, that if in the face of such evidence, the armed vessel will carry the other into port, and the papers are found conformable to treaty, the captors shall be condemned in all the charges, damages and interests thereof, which they shall have caused. A provision of this nature is made in the eleventh article of our treaty with the United Netherlands.

ARTICLE 28. The prohibited goods here mentioned have no relation to contraband; but merely to such as *by the laws of the country are forbidden to be exported*. Yet in the case of exporting horses from Virginia, which no law prohibited, in the winter of 1796, this article was applied by the French Minister to *horses*, which by the French treaty are contraband of war. And a letter from the Minister to Victor Hugues and Lebas, informing them that the American Government refused to prevent such export of horses by the British, is made one ground for their decree above mentioned.

ARTICLE 30. The vessels of the United States ought to be admitted into the ports of France in the same manner as the vessels of France are admitted into the ports of the United States. But such a stipulation ought not to authorize the admission of vessels of either party into the ports of the other, into which the admission of all foreign vessels shall be forbidden by the laws of France and of the United States, respectively. With this restriction, the principles of the 14th article of the treaty with Great Britain afford a liberal and unexceptionable precedent. A restriction like that here referred to will be found in the first paragraph of the third article of the British Treaty.

The commerce to the French colonies in the East and West Indies, will doubtless be more or less restricted, according to the usage of other European nations. Yet on account of the disarranged condition of the French navigation, probably a larger latitude of trade with their colonies will be readily permitted for a term of years: and perhaps the mutual advantages thence resulting will be found so great as to induce afterwards a prolongation of that term, to which the course or habit of business may contribute.

While between the United States and France there shall subsist a perfect reciprocity in respect to commerce, we must endeavour to extend our trade to her colonies to as many articles as possible. Of these the most important are provisions of all kinds, as beef, pork, flour, butter, cheese, fish, grain, pulse, live stock, and every other article serving for food, which is the produce of the country, horses, mules, timber, planks, and wood of all kinds, cabinet ware and other manufactures of the United States; and to obtain in return all the articles of the produce of those colonies, without exception, at least to the value of the cargoes carried to those colonies.

There have been different constructions of the Consular Convention. The French have contended for the execution of their consular decisions, by the marshal or other officer of the United States; and their minister of justice has formally stated, in a report to the minister of foreign affairs, that the judicial sentences of the American consuls in France, will be executed by certain officers of justice in that country. The legal opinion of the law officers of the United States, which the government has adopted, opposes such a construction. The French have also contended, that deserters from French vessels ought to be apprehended by the judicial officers of the United States, upon other evidence than the original shipping paper, or *rôle d'équipage*; whereas the district judges have insisted that the Consular Convention requires the original rôle to be produced. This claim was lately revived by the consul-general of the French Republic. The correspondence on this occasion will be joined to the other documents which accompany these instructions.

The United States cannot consent to the erecting of foreign tribunals within their jurisdiction. We consider the judicial authority of consuls, as described in the Consular Convention, to be voluntary, not compulsory, in the country where they reside; and that their decisions, if not obeyed by the parties respectively, must be enforced by the laws of their proper country; and such a provision you will see has been made in France, where a penalty of 1400 livres is imposed on the citizen who refuses obedience to a consular decision in a foreign state.

The Consular Convention will expire in about four years; and if any great difficulties arise in settling the terms of a new one, that which exists must take its course: but if the French government should be silent on the subject of the Consular Convention, silence may be observed on your part.

The ports of the United States being frequented by the vessels of different belligerent powers, it became necessary to regulate the times of their sailing. The President, therefore, adopted what was understood to be the received rule in Europe; and ordered, that after the sailing of a vessel of one of the belligerent powers, twenty-four hours should elapse before an armed vessel of the enemy of the former should set sail. This rule has not been duly respected by the armed vessels of France and Great Britain.

As the tranquility of the United States requires, that no hostile movements be commenced within their jurisdiction; and the interests of commerce demand an entire freedom to the departure of vessels from their ports, it may be expedient expressly to recognize the above mentioned rule.

It will also be expedient to agree on the extent of territorial jurisdic-

tion on the sea-coast; and in what situations bays and sounds may be said to be land-locked, and within the jurisdiction of the sovereign of the adjacent country.

On the supposition that a treaty will be negotiated to alter and amend the treaties which now exist between France and the United States, the following leading principles, to govern the negotiation, are subjoined.

1. Conscious integrity authorizes the government to insist, that no blame or censure be directly or indirectly imputed to the United States. But on the other hand, however exceptionable, in the view of our own government, and in the eyes of an impartial world, may have been the conduct of France, yet she may be unwilling to acknowledge any aggressions; and we do not wish to wound her feelings, or to excite resentment. It will therefore be best to adopt, on this point, the principle of the British treaty, and "terminate our differences, in such manner, as, without referring to the merits of our respective complaints and pretensions, may be the best calculated to produce mutual satisfaction, and good understanding."

2. That no aid be stipulated in favour of France during the present war.

3. That no engagement be made inconsistent with the obligations of any prior treaty.

4. That no restraint on our lawful commerce with any other nation be admitted.

5. That no stipulation be made, under colour of which, tribunals can be established within our jurisdiction, or personal privileges claimed by French citizens, incompatible with the complete sovereignty and independence of the United States, in matters of policy, commerce and government.

It will be expedient to limit the duration of the treaty to a term of from ten to twenty years. Such changes in the circumstances of the two parties are likely to happen within either of those periods, as to give one or both good reason to desire a change in the conditions of the treaty. From this limitation may be excepted such articles as are declaratory of a state of peace, or as are intended to regulate the conduct of the two nations at the commencement of, or during a state of war, or which are founded in morality and justice, and are in their nature of perpetual obligation. Of this kind may be considered the tenth article of the treaty with Great Britain; which therefore may very properly be introduced into the treaty with France.

Finally, the great object of the government being to do justice to France and her citizens, if in any thing we have injured them; to obtain justice for the multiplied injuries they have committed against us; and to preserve peace; your style and manner of proceeding will be such as shall most directly tend to secure these objects. There may be such a change of men and measures in France as will authorize, perhaps render politic, the use of strong language, in describing the treatment we have received. On the other hand, the French government may be determined to frustrate the negotiation, and throw the odium on this country; in which case, any thing like warmth and harshness would be made the pretext. If things remain in their present situation, the style of representation will unite, as much as possible, calm dignity with simplicity, force of sentiment with mildness of language, and be calculated

to impress an idea of inflexible perseverance rather than of distrust or confidence.

With these instructions you will receive the following documents.

1. The printed state papers containing the correspondence between the Secretary of State and the French Minister, Mr. Genet.

2. The letter dated January 16th, 1797, from the Secretary of State to General Pinckney, and the documents therein referred to, in which all the known complaints of the French government, since the recall of Mr. Genet, are exhibited and discussed.

3. A report from the Secretary of State to the House of Representatives, dated the 27th of February, 1797, exhibiting the state of American claims which had been presented to the French government (but few of which had been satisfied) together with some further information relative to the depredations, by the officers and people of that nation on the commerce of the United States.

4. A report made by the Secretary of State to the President of the United States, on the 21st of June, 1797, and by him laid before Congress on the 22d.

5. Certain original depositions, protests, and other papers relative to the French spoliation on the commerce, and personal insults and injuries to the citizens of the United States.

6. The documents laid before the House of Representatives the 17th of May, 1797, relative to General Pinckney's mission to Paris, and comprehending some papers relative to the capture and condemnation of American vessels by the French.

7. The correspondence with the French Consul-General Létombe, relative to the Consular Convention.

TIMOTHY PICKERING,
Secretary of State.

DEPARTMENT OF STATE, }
Philadelphia, July 15, 1797. }

LETTERS of CREDENCE and FULL POWERS to the Envoys from the United States to the French Republic.

L E T T E R S o f C R E D E N C E .

JOHN ADAMS, President of the United States of America,
To the Executive Directory of the French Republic.

Citizens Directors,

DESIROUS of terminating all differences between the United States of America and the French Republic, and of restoring that harmony and good understanding, and that commercial and friendly intercourse, which from the commencement of their political connection, until lately, have so happily subsisted, I have nominated, and by and with the advice and consent of the Senate of the United States, appointed Charles Cotesworth Pinckney, John Marshall, and Elbridge Gerry, distinguished citi-

zens of these states, jointly and severally, Envoys Extraordinary and Ministers Plenipotentiary to the French Republic, for the purpose of accomplishing the great objects above-mentioned: Wherefore I pray you, Citizens Directors, to give full credence to what they and each of them shall say to you in these respects, in behalf of the United States, and also when they shall assure you of the sincerity of our wishes for the welfare of the French Republic.

GIVEN under my hand, and the great seal of the United States of America, at Philadelphia, the thirteenth day of July, in the year 1797, and of the Independence of these states the twenty-second.

JOHN ADAMS.

By the President of the United States,

TIMOTHY PICKERING, *Secretary of State.*

FULL POWERS.

JOHN ADAMS, President of the United States of America,

To all whom these presents shall concern—GREETING:

KNOW YE, That for the purpose of terminating all differences between the United States of America and the French Republic, and of restoring and confirming perfect harmony and good understanding, and re-establishing a commercial and friendly intercourse between them, and reposing a special trust and confidence in the integrity, prudence and abilities of Charles Cotesworth Pinckney, John Marshall, and Elbridge Gerry, Citizens of the said United States, I have nominated, and, by and with the advice and consent of the Senate, appointed the said Charles Cotesworth Pinckney, John Marshall, and Elbridge Gerry, jointly and severally, Envoys Extraordinary and Ministers Plenipotentiary of the United States to the French Republic; hereby giving and granting to them and any and each of them, full power and authority, and also a general and special command, for and in the name of the United States to meet and confer with the Ministers, Commissioners or deputies of the French Republic, being furnished with the like full powers, whether separately or jointly, and with them to treat, consult and negotiate, of and concerning all claims, and all matters and causes of difference, subsisting between the United States and the French Republic, for the purpose of satisfying and terminating the same in a just and equitable manner; and also of and concerning the general commerce between the United States and France, and all other the dominions of the French Republic; and to conclude and sign a treaty or treaties, convention or conventions, touching the premises; transmitting the same to the President of the United States of America for his final ratification, by and with the advice and consent of the Senate of the United States, if such advice and consent shall be given.

IN TESTIMONY WHEREOF, I have caused the seal of the United States to be hereunto affixed.

GIVEN under my hand at the City of Philadelphia, the twenty-second day of June, in the year of our Lord one thousand seven hundred and ninety-seven, and of the Independence of the United States of America, the twenty-sixth.

JOHN ADAMS.

By the President of the United States,

TIMOTHY PICKERING, *Secretary of State.*

Department of State, April 3d, 1798.

THE names designated by the letters W. X. Y. Z. in the following copies of letters from the Envoys of the United States to the French Republic, are, in the originals, written at full length, in cyphers. For the same reason that single letters are thus taken to designate certain persons named in the letters, other words descriptive of them are omitted.

TIMOTHY PICKERING.

DISPATCHES from the Envoys to the Secretary of State.

(No. 1.)

*Paris, October 22d, 1797.**Dear Sir,*

ALL of us having arrived at Paris on the evening of the fourth instant, on the next day we verbally and unofficially informed the minister of foreign affairs therewith, and desired to know when he would be at leisure to receive one of our secretaries with the official notification: he appointed the next day at two o'clock; when Major Rutledge waited on him with the following letter:

Citizen Minister,

The United States of America being desirous of terminating all differences between them and the French Republic, and of restoring that harmony and good understanding, and that commercial and friendly intercourse, which from the commencement of their political connection until lately have so happily subsisted, the President has nominated, and by and with the advice and consent of the Senate has appointed us, the undersigned, jointly and severally, Envoys Extraordinary and Ministers Plenipotentiary to the French Republic, for the purpose of accomplishing these great objects. In pursuance of such nomination and appointment, and with such view having come to Paris, we wish, Citizen Minister, to wait on you at any hour you will be pleased to appoint, to present the copy of our letters of credence; and whilst we evince our sincere and ardent desire for the speedy restoration of friendship and harmony between the two republics, we flatter ourselves with your concurrence in the accomplishment of this desirable event. We request you will accept the assurances of our perfect esteem and consideration.

Paris, October 6th, in the 22d year }
of American Independence. }

(Signed)

CHARLES COTESWORTH PINCKNEY,

JOHN MARSHALL,

ELBRIDGE GERRY.

To this letter the minister gave a verbal answer, that he would see us the day after the morrow (the 8th) at one o'clock. Accordingly at that hour and day we waited on the minister at his house, where his office is held, when, being informed he was not at home, the secretary-general of the department told Major Rutledge, that the minister was obliged to wait on the Directory, and requested we would suspend our visit till three

o'clock. At which hour we called. The minister we found was then engaged with the Portuguese minister, who retired in about ten minutes, when we were introduced and produced the copy of our letters of credence, which the minister perused and kept. He informed us, "that the Directory had required him to make a report relative to the situation of the United States with regard to France, which he was then about, and which would be finished in a few days, when he would let us know what steps were to follow." We asked if cards of hospitality were in the mean time necessary? He said they were, and that they should be delivered to us; and he immediately rung for his secretary and directed him to make them out. The conversation was carried on by him in French, and by us in our own language.

The next day cards of hospitality were sent to us and our secretaries, in a style suitable to our official character.

On Saturday the 14th, Major Mountflorenc informed General Pinckney, that he had a conversation with Mr. Osmond, the private and confidential secretary of the minister of foreign affairs, who told him, that the Directory were greatly exasperated at some parts of the President's speech, at the opening of the last session of Congress, and would require an explanation of them from us. The particular parts were not mentioned. In another conversation on the same day the secretary informed the major, that the minister had told him it was probable we should not have a public audience of the Directory till such time as our negotiation was finished, that probably persons might be appointed to treat with us, but they would report to him, and he would have the direction of the negotiation. The Major did not conceal from Mr. Osmond his intention to communicate these conversations to us.

In the morning of October the eighteenth, Mr. W. . . . of the house of called on General Pinckney and informed him, that a Mr. X. who was in Paris and whom the General had seen was a gentleman of considerable credit and reputation and that we might place great reliance on him.

In the evening of the same day, Mr. X. called on General Pinckney, and after having sat some time whispered him, that he had a message from M. Talleyrand to communicate, when he was at leisure. General Pinckney immediately withdrew with him into another room; and when they were alone Mr. X. said, that he was charged with a business in which he was a novice; that he had been acquainted with M. Talleyrand and that he was sure he had a great regard for [America] and its citizens; and was very desirous, that a reconciliation should be brought about with France; that to effectuate that end, he was ready, if it was thought proper, to suggest a plan, confidentially, that M. Talleyrand expected would answer the purpose. General Pinckney said he should be glad to hear it. M. X. replied, that the Directory, and particularly two of the members of it, were exceedingly irritated at some passages of the President's speech, and desired that they should be softened; and that this step would be necessary previous to our reception: that besides this, a sum of money was required for the pocket of the Directory and ministers, which would be at the disposal of M. Talleyrand: and that a loan would also be insisted on. M. X. said, if we acceded to these measures, M. Talleyrand had no

doubt that all our differences with France might be accommodated. On enquiry, M. X. could not point out the particular passages of the speech that had given offence, nor the quantum of the loan, but mentioned that the *douceur* for the pocket was twelve hundred thousand livres, about fifty thousand pounds sterling. General Pinckney told him, his colleagues and himself, from the time of their arrival here, had been treated with great slight and disrespect; that they earnestly wished for peace and reconciliation with France; and had been entrusted by their country with very great powers to obtain these ends, on honorable terms: that with regard to the propositions made, he could not even consider of them before he had communicated them to his colleagues: that after he had done so, he should hear from him. After a communication and consultation had, it was agreed, that General Pinckney should call on M. X. and request him to make his propositions to us all; and for fear of mistakes or misapprehension, that he should be requested to reduce the heads into writing. Accordingly, on the morning of October the nineteenth, General Pinckney called on M. X. who consented to see his colleagues in the evening, and to reduce his propositions to writing. He said his communication was not immediately with M. Talleyrand, but through another gentleman, in whom M. Talleyrand had great confidence: this proved afterwards to be M. Y.

At six in the evening M. X. came and left with us the first set of propositions; which, translated from the French, are as follows; "A person who possesses the confidence of the Directory, on what relates to the affairs of America, convinced of the mutual advantages which would result from the re-establishment of the good understanding between the two nations, proposes to employ all of his influence to obtain this object. He will assist the commissioners of the United States in all the demands which they may have to make from the government of France, inasmuch as they may not be contradictory to those which he proposes himself to make, and of which the principal will be communicated confidentially. It is desired that in the official communications there should be given a softening turn to a part of the President's speech to Congress, which has caused much irritation. It is feared that in not satisfying certain individuals in this respect, they may give way to all their resentment. The nomination of commissioners will be consented to on the same footing as they have been named in the treaty with England, to decide on the reclamations which individuals of America may make on the government of France, or on French individuals. The payment which, agreeably to the decisions of the commissioners, shall fall to the share of the French government, are to be advanced by the American government itself. It is desired that the funds which by this means shall enter again into the American trade, should be employed in new supplies for the French colonies. Engagements of this nature on the part of individuals reclaiming will always hasten, in all probability, the decisions of the French commissioners: and perhaps it may be desired that this clause should make a part of the instructions which the government of the United States should give to the commissioners they may choose. The French government desires, besides, to obtain a loan from the United States; but so that that should not give any jealousy to the English government, nor hurt the neutrality of the United States. This loan shall be masked by stipulating, that the government of the United States consents to make

the advances for the payment of the debts contracted by the agents of the French government with the citizens of the United States; and which are already acknowledged, and the payment ordered by the Directory, but without having been yet effectuated. There should be delivered a note to the amount of these debts. Probably this note may be accompanied by ostensible pieces, which will guarantee to the agents the responsibility of the United States in case any umbrage should cause an enquiry. There shall also be first taken from this loan certain sums for the purpose of making the customary distributions in diplomatic affairs." The person of note mentioned in the minutes, who had the confidence of the Directory, he said, before us all, was M. Talleyrand. The amount of the loan he could not ascertain precisely, but understood it would be according to our ability to pay. The sum which would be considered as proper, according to diplomatic usage, was about twelve hundred thousand livres. He could not state to us what parts of the President's speech were excepted to, but said he would enquire and inform us. He agreed to breakfast with Mr. Gerry the morning of the 21st, in order to make such explanations as we had then requested, or should think proper to request: but on the morning of the 20th M. X. called and said, that M. Y. the confidential friend of M. Talleyrand, instead of communicating with us through M. X. would see us himself and make the necessary explanations. We appointed to meet him the evening of the twentieth at seven o'clock, in General Marshall's room. At seven M. Y. and M. X. entered; and the first mentioned gentleman, being introduced to us as the confidential friend of M. Talleyrand, immediately stated to us the favourable impressions of that gentleman towards our country, impressions which were made by the kindness and civilities he had personally received in America: that impressed by his solicitude to repay these kindnesses, he was willing to aid us in the present negociation by his good offices with the Directory, who were, he said, extremely irritated against the government of the United States, on account of some parts of the President's speech, and who had neither acknowledged nor received us, and consequently have not authorized M. Talleyrand to have any communications with us. The minister therefore could not see us himself, but had authorized his friend M. Y. to communicate to us certain propositions, and to receive our answers to them; and to promise on his part, that if we would engage to consider them as the basis of the proposed negociation, he would intercede with the Directory to acknowledge us, and to give us a public audience. M. Y. stated to us explicitly and repeatedly, that he was clothed with no authority; that he was not a diplomatic character; that he was not . . . he was only the friend of M. Talleyrand and trusted by him; that with regard to himself he had . . . and that he earnestly wished well to the United States. He then took out of his pocket a French translation of the President's speech, the parts of which objected to by the Directory were marked, agreeably to our request to M. X. and are contained in the exhibit A. Then he made us the second set of propositions, which were dictated by him and written by M. X. in our presence, and delivered to us, and which, translated from the French, are as follows. "There is demanded a formal disavowal in writing, declaring that the speech of the citizen President Barras did not contain any thing offensive to the government of the United States, nor any thing which de-

served the epithets contained in the whole paragraph: Secondly, reparation is demanded for the article by which it shall be declared, that the decree of the Directory there mentioned did not contain any thing contrary to the treaty of 1778, and had none of those fatal consequences, that the paragraph reproaches to it: Thirdly, it is demanded, that there should be an acknowledgment in writing of the depredations exercised on our trade by the English and French privateers: Fourthly, the government of France, faithful to the profession of public faith which it has made not to intermeddle in the internal affairs of foreign governments with which it is at peace, would look upon this paragraph as an attack upon its loyalty, if this was intended by the President. It demands, in consequence, a formal declaration, that it is not the government of France, nor its agents, that this paragraph meant to designate: In consideration of these reparations, the French Republic is disposed to renew with the United States of America, a treaty which shall place them reciprocally in the same state that they were in 1778: By this new treaty France shall be placed with respect to the United States, exactly on the same footing as they stand with England, in virtue of the last treaty which has been concluded between them. A secret article of this new treaty would be a loan to be made by the United States to the French Republic: and once agreed upon the amount of the loan, it would be endeavored to consult the convenience of the United States with respect to the best method of preventing its publicity." On reading the speech M. Y. dilated very much upon the keenness of the resentment it had produced, and expatiated largely on the satisfaction he said was indispensably necessary as a preliminary to negotiation. "But, said he, gentlemen, I will not disguise from you, that this satisfaction being made, the essential part of the treaty remains to be adjusted: *il faut de l'argent—il faut beaucoup d'argent:*" *you must pay money, you must pay a great deal of money.* He spoke much of the force, the honor and the jealous republican pride of France; and represented to us strongly the advantages which we should derive from the neutrality thus to be purchased. He said, that the receipt of the money might be so disguised as to prevent its being considered as a breach of neutrality by England; and thus save us from being embroiled with that power. Concerning the twelve hundred thousand livres little was said; that being completely understood, on all sides, to be required for the officers of government, and therefore needing no further explanation. These propositions, he said, being considered as the admitted basis of the proposed treaty, M. Talleyrand trusted that, by his influence with the Directory, he could prevail on the government to receive us. We asked whether we were to consider it as certain, that without a previous stipulation to the effect required, we were not to be received. He answered, that M. Talleyrand himself was not authorized to speak to us the will of the Directory, and consequently could not authorize him. The conversation continued until half after nine, when they left us; having engaged to breakfast with Mr. Gerry the next morning.

October the 21st, M. X. came before nine o'clock: M. Y. did not come until ten—he had passed the morning with M. Talleyrand. After breakfast the subject was immediately resumed. He represented to us, that we were not yet acknowledged or received; that the directory were so exasperated against the United States, as to have come to a determina-

tion to demand from us, previous to our reception, those disavowels, reparations and explanations, which were stated at large last evening. He said that M. Talleyrand and himself were extremely sensible of the pain we must feel in complying with this demand; but that the Directory would not dispense with it: that therefore we must consider it as the indispensable preliminary to obtain our reception; unless we could find the means to change their determination in this particular: that if we satisfied the Directory in these particulars, a letter would be written to us to demand the extent of our powers, and to know whether we were authorized to place them precisely on the same footing with England; whether, he said, our full powers were really and substantially full powers; or, like those of Lord Malmesbury, only illusory powers: that, if to this demand our answer should be affirmative, then France would consent that commissioners should be appointed to ascertain the claims of the United States, in like manner as under our treaty with England: but from their jurisdiction must be withdrawn those which were condemned for want of a *role d'équipage*; that being a point on which Merlin while minister of justice, had written a treatise, and on which the Directory were decided. There would however be no objection to our complaining of these captures, in the course of the negotiation; and if we could convince Merlin by our reasoning, the minister would himself be satisfied with our so doing. We required an explanation of that part of the conversation, in which M. Y. had hinted at our finding means to avert the demand concerning the President's speech. He answered, that he was not authorized to state those means, but that we must search for them and propose them ourselves. If however we asked his opinion as a private individual, and would receive it as coming from him, he would suggest to us the means which in his opinion would succeed. On being asked to suggest the means, he answered, money; that the Directory were jealous of its own honor and of the honor of the nation; that it insisted on receiving from us the same respect with which we had treated the King; that this honor must be maintained in the manner before required, unless we substituted in the place of those reparations something perhaps more valuable, that was money. He said further, that if we desired him to point out the sum which he believed would be satisfactory, he would do so. We requested him to proceed; and he said, that there were thirty-two millions of florins of Dutch inscriptions, worth ten shillings in the pound, which might be assigned to us at twenty shillings in the pound: and he proceeded to state to us the certainty, that after a peace, the Dutch government would repay us the money; so that we should ultimately lose nothing; and the only operation of the measure would be, an advance from us to France of thirty-two millions, on the credit of the government of Holland. We asked him whether the fifty thousand pounds sterling, as a *douceur* to the Directory, must be in addition to this sum. He answered in the affirmative. We told him, that on the subject of the treaty, we had no hesitation in saying that our powers were ample: that on the other points proposed to us we would retire into another room, and return in a few minutes with our answer.

We committed immediately to writing the answer we proposed, in the following words: "Our powers respecting a treaty are ample: but the proposition of a loan in the form of Dutch inscriptions, or in any

other form, is not within the limits of our instructions; upon this point therefore the government must be consulted: one of the American ministers will, for the purpose, forthwith embark for America: provided the Directory will suspend all further captures on American vessels, and will suspend proceedings on those already captured, as well where they have been already condemned, as where the decisions have not yet been rendered; and that where sales have been made, but the money not yet received by the captors, it shall not be paid until the preliminary questions, proposed to the ministers of the United States, be discussed and decided;" which was read as a verbal answer; and we told them they might copy it, if they pleased. M. Y. refused to do so: his disappointment was apparent: he said we treated the money part of the proposition as if it had proceeded from the Directory; whereas in fact it did not proceed even from the minister, but was only a suggestion from himself, as a substitute to be proposed by us, in order to avoid the painful acknowledgment that the Directory had determined to demand of us. It was told him, that we understood that matter perfectly: that we knew the proposition was in form to be ours; but that it came substantially from the minister. We asked what had led to our present conversation? And General Pinckney then repeated the first communication from M. X. (to the whole of which that gentleman assented) and we observed that those gentlemen had brought no testimonials of their speaking any thing from authority: but that relying on the fair characters they bore, we had believed them when they said they were from the minister, and had conversed with them in like manner, as if we were conversing with M. Talleyrand himself; and that we could not consider any suggestion M. Y. had made, as not having been previously approved of: but yet, if he did not chuse to take a memorandum in writing of our answer, we had no wish that he should do so; and further, if he chose to give the answer to his proposition the form of a proposition from ourselves we could only tell him, that we had no other proposition to make, relative to any advance of money on our part: that America had sustained deep and heavy losses by French depredations on our commerce, and that France had alledged so [many] complaints against the United States, that on those subjects we came fully prepared, and were not a little surprized to find France unwilling to hear us; and making demands upon us which could never have been suspected by our government, and which had the appearance of our being the aggressing party. M. Y. expressed himself vehemently on the resentment of France; and complained, that instead of our proposing some substitute for the reparations demanded of us, we were stipulating certain conditions to be performed by the Directory itself; that he could not take charge of such propositions; and that the Directory would persist in its demand of those reparations which he at first stated. We answered, that we could not help it; it was for the Directory to determine what course its own honor and the interests of France required it to pursue: it was for us to guard the interests and honor of our country. M. Y. observed, that we had taken no notice of the first proposition, which was, to know whether we were ready to make the disavowal, reparations and explanations concerning the President's speech. We told him that we supposed it to be impossible, that either he or the minister could imagine, that such a proposition could require an answer: that we did not understand it as being seriously expected; but merely as introductory to the subjects of real consideration.

He spoke of the respect which the directory required, and repeated, that it would exact as much as was paid to the ancient Kings. We answered that America had demonstrated to the world, and especially to France, a much greater respect for her present government than for her former monarchy; and that there was no evidence of this disposition which ought to be required, that we were not ready to give. He said that we should certainly not be received; and seemed to shudder at the consequences. We told him, that America had made every possible effort to remain on friendly terms with France; that she was still making them: that if France would not hear us; but would make war on the United States; nothing remained for us, but to regret the unavoidable necessity of defending ourselves.

The subject of our powers was again mentioned; and we told him, that America was solicitous to have no more misunderstandings with any Republic, but especially with France; that she wished a permanent treaty, and was sensible, that no treaty could be permanent, which did not comport with the interests of the parties; and therefore that he might be assured, that our powers were such as authorized us to place France on equal ground with England, in any respects in which an inequality might be supposed to exist at present between them, to the disadvantage of France. The subject of the rôle d'équipage was also mentioned; and we asked what assurance we could have, if France insisted on the right of adding to the stipulations of our treaty, or of altering them by municipal regulations, that any future treaty we could make should be observed. M. Y. said that he did not assert the principle of changing treaties by municipal regulations; but that the Directory considered its regulation concerning the rôle d'équipage as comporting with the treaty. We observed to him, that none of our vessels had what the French termed a rôle d'équipage, and that if we were to surrender all the property which had been taken from our citizens in cases where their vessels were not furnished with such a rôle, the government would be responsible to its citizens for the property so surrendered; since it would be impossible to undertake to assert, that there was any plausibility in the allegation, that our treaty required a rôle d'équipage.

The subject of disavowals, &c. concerning the President's speech was again mentioned; and it was observed, that the Constitution of the United States authorized and required our President to communicate his ideas on the affairs of the nation; that, in obedience to the Constitution, he had done so; that we had not power to confirm or invalidate any part of the President's speech; that such an attempt could produce no other effect than to make us ridiculous to the government and to the citizens at large of the United States; and to produce, on the part of the President, an immediate disavowal and recall of us as his agents: that independent of this, all America was acquainted with the facts stated by the President; and our disavowing them would not change the public sentiment concerning them.

We parted with mutual professions of personal respect, and with full indications on the part of M. Y. of his expectation, that we should immediately receive the threatened letter.

The nature of the above communication will evince the necessity of secrecy; and we have promised Messrs. X. and Y. that their names shall in no event be made public.

We have the honor to be, with great respect and esteem, your most obedient humble servants.

CHARLES COTESWORTH PINCKNEY,
J. MARSHALL,
E. GERRY.

P. S. October 27th, 1797. The Definitive Articles of Peace are signed between the French Republic and the Emperor: the particulars you will find in the public prints. The Portuguese Minister is ordered to quit France, as the treaty with Portugal has not been yet ratified by the Queen. The Treaty itself is declared by the Directory to be void. Since our arrival at Paris the tribunal of cassation has rejected captain Scott's petition complaining of the condemnation of his vessel by the civil tribunal for the want of a rôle d'équipage. Mr. ——— in behalf of the owners of the American vessels, who have appealed in the last resort to the tribunal of cassation, informs, that notwithstanding all the arguments ——— made use of ——— to put off the hearing of the Rosanna, as a diplomatic case, 'till the issue of our negotiations is known, that case is set down for hearing and will come on the 29th or 30th inst. The same ——— also says, that it is obvious, that the tribunal have received instructions from the officers of the government to hasten their decisions, and that it was hardly worth while to ——— for all our petitions in cassation would be rejected. Our advocates ——— decline giving their sentiments on this subject ——— under an apprehension of committing themselves.

Col. Pickering, Sec'y of the United States.

Paragraphs of the PRESIDENT's Speech, referred to in Letter No. 1. under title of exhibit A.

I. With this conduct of the French government it will be proper to take into view the public audience, given to the late minister of the United States, on his taking leave of the Executive Directory. The speech of the President discloses sentiments more alarming than the refusal of a Minister, because more dangerous to our independence and union, and at the same time studiously marked with indignities towards the government of the United States. It evinces a disposition to separate the people of the United States from the government; to persuade them, that they have different affections, principles and interests from those of their fellow-citizens, whom they themselves have chosen to manage their common concerns; and thus to produce divisions fatal to our peace. Such attempts ought to be repelled with a decision, which shall convince France and the world, that we are not a degraded people, humiliated under a colonial spirit of fear, and sense of inferiority, fitted to be the miserable instruments of foreign influence, and regardless of national honor, character and interest.

II. The diplomatic intercourse between the United States and France being at present suspended; the government has no means of obtaining official information from that country: nevertheless there is reason to believe that the Executive Directory passed a decree, on the 2d of March last, contravening in part the treaty of amity and commerce of 1778, injurious to our lawful commerce and endangering the lives of our citizens. A copy of this decree will be laid before you.

III. While we are endeavoring to adjust all our differences with France, by amicable negotiation, the progress of the war in Europe, the depredations on our commerce, the personal injuries to our citizens, and the general complexion of affairs render it my indispensable duty to recommend to your consideration effectual measures of defence.

IV. It is impossible to conceal from ourselves, or the world, what has been before observed, that endeavours have been employed to foster and establish a division between the government and people of the United States. To investigate the causes which have encouraged this attempt is not necessary. But to repel, by decided and united councils, insinuations so derogatory to the honor, and aggressions so dangerous to the constitution, union and even independence of the nation, is an indispensable duty.

ANSWER OF M. BARRAS,

President of the Executive Directory, to the Speech of Mr. MONROE on taking leave, to which the Speech of the President of the United States refers.

M. Le Ministre Plénipotentiaire des Etats Unis d'Amérique.

En présentant aujourd'hui au Directeur Exécutif vos lettres de rappel, vous donnez à l'Europe un spectacle bien étrange.

La France, riche de sa liberté, entourée du cortège de ses victoires, fort de l'estime de ses alliés, ne s'abaissera pas à calculer les suites de la condescendance du gouvernement Américain pour les suggestions de ses anciens tyrans... La République Française espère, au surplus, que les successeurs de Colombus, Ramhiph et Penn, toujours fiers de leur liberté, n'oublieront jamais qu'ils la doivent à la France..... Ils péseront dans leur sagesse la magnanime bienveillance du peuple Française avec les astucieuses caresses de quelques perfides qui méditent de le ramener à son antique esclavage. Assurez, M. le Ministre, le bon peuple Américain que, comme lui, nous adorons la liberté; que toujours il aura notre estime, et qu'il trouvera, dans le peuple Français, la générosité républicaine qui sait accorder la paix comme elle sait faire respecter sa souveraineté.*

Mr. Minister Plenipotentiary of the United States of America.

By presenting to-day your letters of recall to the Executive Directory, you give to Europe a very strange spectacle.

France, rich in her liberty, surrounded by a train of victories, strong in the esteem of her allies, will not abase herself by calculating the consequences of the condescension of the American Government to the suggestions of her former tyrants. Moreover, the French Republic hopes, that the successors of Columbus, Ramhiph* and Penn, always proud of their liberty, will never forget that they owe it to France. They will weigh in their wisdom, the magnanimous benevolence of the French people with the crafty caresses of certain perfidious persons who meditate bringing them back to their former slavery. Assure the good American people, Sir, that like them we adore liberty; that they will always have our esteem, and that they will find in the French people, republican generosity, which knows how to grant peace, as it does to cause its sovereignty to be respected.

* Probably intended for Raleigh.

Paris, November 8th, 1797.

DEAR SIR,

WE now enclose you, in thirty-six quarto pages of cypher, and in eight pages of cyphered exhibits, the sequel to the details commenced in No. 1, dated the 22d of last month; and have the honor to be,

Your most obedient humble servants,

CHARLES COTESWORTH PINCKNEY,
J. MARSHALL,
E. GERRY.

Colonel Pickering.

October 27th, 1797.

About twelve we received another visit from M. X. He immediately mentioned the great event announced in the papers, and then said, that some proposals from us had been expected on the subject on which we had before conversed; that the Directory were becoming impatient, and would take a decided course with regard to America, if we could not soften them. We answered, that on that subject we had already spoken explicitly, and had nothing farther to add. He mentioned the change in the state of things which had been produced by the peace with the emperor, as warranting an expectation of a change in our system; to which we only replied, that this event had been expected by us, and would not in any degree affect our conduct. M. X. urged, that the Directory had, since this peace, taken a higher and more decided tone with respect to us, and all other neutral nations, than had been before taken; that it had been determined, that all nations should aid them, or be considered and treated as their enemies. We answered, that such an effect had already been contemplated by us as probable, and had not been overlooked when we gave to this proposition our decided answer; and further, that we had no powers to negotiate for a loan of money; that our government had not contemplated such a circumstance in any degree whatever; that if we should stipulate a loan, it would be a perfectly void thing, and would only deceive France, and expose ourselves. M. X. again expatiated on the power and violence of France: he urged the danger of our situation, and pressed the policy of softening them, and of thereby obtaining time. The present men, he said, would very probably not continue long in power; and it would be very unfortunate if those who might succeed, with better dispositions towards us, should find the two nations in actual war. We answered, that if war should be made on us by France, it would be so obviously forced on us, that on a change of men, peace might be made with as much facility as the present differences could be accommodated: we added, that all America

Quant à vous, M. le Ministre plenipotentiaire, vous avez combattu pour les vrais intérêts de votre patrie....partez avec nos regrets. Nous rendons en vous un représentant à l'Amérique, et nous retenons le souvenir du citoyen dont les qualités personnelles honoraient ce titre.

As to you, Mr. Minister Plenipotentiary, you have combatted for principles, you have known the true interests of your country. Depart with our regret. In you we give up a representative to America and retain the remembrance of the citizen whose personal qualities did honor to that title.

deprecatèd a war with France; but that our present situation was more ruinous to us than a declared war could be; that at present our commerce was plundered unprotected; but that if war was declared, we should seek the means of protection. M. X. said, he hoped we should not form a connection with Britain; and we answered, that we hoped so too; that we had all been engaged in our revolution war, and felt its injuries; that it had made the deepest impressiion on us; but that if France should attack us, we must seek the best means of self defence. M. X. again returned to the subject of money: Said he, gentlemen, you do not speak to the point; it is money: it is expected that you will offer money. We said that we had spoken to that point very explicitly: we had given an answer. No, said he, you have not: what is your answer? We replied; it is no; no; not a six-pence. He again called our attention to the dangers which threatened our country, and asked, if it would not be prudent, though we might not make a loan to the nation, to interest an influential friend in our favor. He said we ought to consider what men we had to treat with; that they disregarded the justice of our claims, and the reasoning with which we might support them; that they disregarded their own colonies; and considered themselves as perfectly invulnerable with respect to us; that we could only acquire an interest among them by a judicious application of money; and it was for us to consider, whether the situation of our country did not require that these means should be resorted to. We observed, that the conduct of the French government was such as to leave us much reason to fear, that should we give the money, it would effect no good purpose, and would not produce a just mode of thinking with respect to us. Proof of this must first be given us. He said, that when we employed a lawyer, we gave him a fee, without knowing whether the cause could be gained or not; but it was necessary to have one, and we paid for his services, whether those services were successful or not: so in the present state of things, the money must be advanced for the good offices the individuals were to render, whatever might be the effect of those good offices. We told him there was no parallel in the cases; that a lawyer, not being to render the judgment, could not command success; he could only endeavour to obtain it; and consequently, we could only pay him for his endeavours: but the Directory could decide on the issue of our negotiation. It had only to order, that no more American vessels should be seized, and to direct those now in custody to be restored, and there could be no opposition to the order. He said, that all the members of the Directory were not disposed to receive our money: that Merlin, for instance, was paid from another quarter, and would touch no part of the *douceur* which was to come from us. We replied, that we had understood, that Merlin was paid by the owners of the privateers; and he nodded an assent to the fact. He proceeded to press this subject with vast perseverance. He told us that we paid money to obtain peace with the Algerines, and with the Indians; and that it was doing no more to pay France for peace. To this it was answered, that when our government commenced a treaty with either Algiers or the Indian tribes, it was understood that money was to form the basis of the treaty, and was its essential article; that the whole nation knew it, and was prepared to expect it as a thing of course; but that in treating with France, our government had supposed, that a proposition, such as he spoke of, would,

if made by us, give mortal offence. He asked if our government did not know, that nothing was to be obtained here without money? We replied, that our government had not even suspected such a state of things. He appeared surprised at it, and said, there was not an American in Paris who could not have given that information. We told him, that the letters of our Minister had indicated a very contrary temper in the government of France; and had represented it as acting entirely upon principle, and as feeling a very pure and disinterested affection for America. He looked somewhat surprised; and said briskly to general Pinckney: well, sir, you have been a long time in France and in Holland; what do you think of it? General Pinckney answered, that he considered M. X. and M. Y. as men of truth, and of consequence he could have but one opinion on the subject. He stated, that Hamburgh, and other states of Europe, were obliged to buy a peace; and that it would be equally for our interest to do so. Once more he spoke of the danger of a breach with France, and of her power, which nothing could resist. We told him that it would be in vain for us to deny her power, or the solicitude we felt to avoid a contest with it; that no nation estimated her power more highly than America, or wished more to be on amicable terms with her; but that one object was still dearer to us than the friendship of France, which was our national independence: that America had taken a neutral station; she had a right to take it: no nation had a right to force us out of it: that to lend a sum of money to a belligerent power, abounding in every thing requisite for war but money, was to relinquish our neutrality, and take part in the war: to lend this money, under the lash and coercion of France, was to relinquish the government of ourselves, and to submit to a foreign government imposed upon us by force: that we would make at least one manly struggle before we thus surrendered our national independence: that our case was different from that of one of the minor nations of Europe; they were unable to maintain their independence, and did not expect to do so: America was a great, and, so far as concerned her self-defence, a powerful nation: she was able to maintain her independence; and must deserve to lose it, if she permitted it to be wrested from her: that France and Britain had been at war for near fifty years of the last hundred, and might probably be at war for fifty years of the century to come; that America had no motives which could induce her to involve herself in those wars; and that if she now preserved her neutrality and her independence, it was most probable that she would not in future be afraid, as she had been for four years past: but if she now surrendered her rights of self-government to France, or permitted them to be torn from her, she could not expect to recover them, or to remain neutral in any future war. He said that France had lent us money during our revolution war, and only required that we should now exhibit the same friendship for her. We answered, that the cases were very different; that America solicited a loan from France, and left her at liberty to grant or refuse it; but that France demanded it from America, and left us no choice on the subject. We also told him there was another difference in the cases; that the money was lent by France for great national and French objects; it was lent to maim a rival and an enemy whom she hated: that the money, if lent by America, would not be for any American objects, but to enable France to extend still further her conquests. The conversation continued for nearly

two hours ; and the public and private advance of money was pressed and repressed in a variety of forms. At length M. X. said that he did not blame us ; that our determination was certainly proper, if we could keep it : but he showed decidedly his opinion to be that we could not keep it. He said that he would communicate, as nearly as he could, our conversation to the Minister, or to M. Y. to be given by him to the Minister ; we are not certain which. We then separated. On the 22d of October, M. Z. a French Gentleman of respectable character, informed Mr. Gerry, that M. Talleyrand, Minister of foreign relations, who professed to be well disposed towards the United States, had expected to have seen the American Ministers frequently in their private capacities ; and to have conferred with them individually on the objects of their mission ; and had authorized M. Z. to make this communication to Mr. Gerry. The latter sent for his colleagues ; and a conference was held with M. Z. on the subject ; in which General Pinckney and General Marshall expressed their opinions, that not being acquainted with M. Talleyrand, they could not, with propriety, call on him ; but, that according to the custom of France, he might expect this of Mr. Gerry from a previous acquaintance in America. This Mr. Gerry reluctantly complied with on the 23d. and with M. Z. called on M. Talleyrand, who, not being then at his office, appointed the 28th for the interview. After the first introduction, M. Talleyrand began the conference. He said, that the Directory had passed an arrête, which he offered for perusal, in which they had demanded of the envoys an explanation of some parts, and a reparation for others, of the President's speech to Congress, of the 16th of May last : he was sensible, he said, that difficulties would exist on the part of the envoys relative to this demand ; but that by their offering money, he thought he could prevent the effect of the arrête. M. Z. at the request of Mr. Gerry, having stated that the envoys have no such powers ; M. Talleyrand replied, they can in such case take a power on themselves ; and proposed that they should make a loan. Mr. Gerry then addressed M. Talleyrand distinctly in English, which he said he understood, and stated, that the uneasiness of the Directory resulting from the President's speech, was a subject unconnected with the objects of the mission : that M. Barras, in his speech to Mr. Munroe, on his recall, had expressed himself in a manner displeasing to the government and citizens of the United States ; that the President, as the envoys conceived, had made such observations on M. Barras' speech as were necessary to vindicate the honor of the United States ; that this was not considered by our government as a subject of dispute between the two nations ; that having no instructions respecting it, we could not make any explanations or reparations relating to it ; and that M. Talleyrand himself was sufficiently acquainted with the constitution of the United States to be convinced of the truth of these observations. Mr. Gerry further stated, that the powers of the envoys, as they conceived, were adequate to the discussion and adjustment of all points of real difference between the two nations ; that they could alter and amend the treaty ; or, if necessary, form a new one ; that the United States were anxiously desirous of removing all causes of complaint between themselves and France, and of renewing their former friendship and intercourse, on terms which should be mutually honorable and beneficial to the two nations ; but not on any other terms ; that as to a loan, we had no powers whatever to make one ; that

if we were to attempt it, we should deceive himself and the Directory likewise, which, as men of honor, we could not do; but that we could send one of our number for instructions on this proposition, if deemed expedient, provided that the other objects of the negotiation could be discussed and adjusted; that as he had expressed a desire to confer with the envoys individually, it was the wish of Mr. Gerry that such a conference should take place, and their opinions thus be ascertained, which he conceived corresponded with his own in the particulars mentioned. M. Talleyrand, in answer, said, he should be glad to confer with the other envoys individually, but that this matter about the money must be settled directly, without sending to America; that he would not communicate the arrête for a week; and that if we could adjust the difficulty respecting the speech, an application would nevertheless go to the United States for a loan. A courier arriving at this moment from Italy, and M. Talleyrand appearing impatient to read the letters, Mr. Gerry took leave of him immediately. He followed to the door, and desired M. Z. to repeat to Mr. Gerry, what he, M. Talleyrand, had said to him. Mr. Gerry then returned to his quarters with M. Z. took down the particulars of this interview, as before stated, sent for Generals Pinckney and Marshall, and read it to them in the presence of M. Z. who confirmed it. Generals Pinckney and Marshall then desired M. Z. to inform M. Talleyrand that they had nothing to add to this conference, and did not wish that the arrête might be delayed on their account,

October 29th.

M. X. again called on us. He said, M. Talleyrand was extremely anxious to be of service to us, and had requested that one more effort should be made to induce us to enable him to be so. A great deal of the same conversation which had passed at our former interviews was repeated. The power and the haughtiness of France was again displayed to us. We were told that the destruction of England was inevitable; and that the wealth and arts of that nation would naturally pass over to America, if that event should find us in peace. To this observation we replied, that France would probably forbid America to receive them, in like manner as she had forbid Switzerland to permit the residence in its country of a British minister. We told him also, that we were sensible of the value of peace, and therefore sought, it unremittingly, but that it was real peace we sought for, and real peace only which could be desirable.

The sum of his proposition was, that if we would pay, by way of fees, (that was his expression) the sum of money demanded for private use, the Directory would not receive us; but would permit us to remain in Paris as we now were; and we should be received by M. Talleyrand, until one of us could go to America and consult our government on the subject of the loan. These were the circumstances, he said, under which the minister of Portugal had treated. We asked him if, in the mean time, the Directory would order the American property not yet passed into the hands of the privateersmen, to be restored? He said explicitly, that they would not. We asked him, whether they would suspend further depredations on our commerce? He said they would not: but M. Talleyrand observed, that on this subject we could not sustain much additional injury, because the winter season was approaching, when few additional captures could be made. We told him that France had taken violently from America more than fifteen millions of dollars, and treated us in every

respect as enemies, in return for the friendship we had manifested for her; that we had come to endeavour to restore harmony to the two nations, and to obtain compensation for the injuries our countrymen had sustained; and that in lieu of this compensation, we were told, that if we would pay twelve hundred thousand livres, we might be permitted to remain in Paris; which would only give us the benefit of seeing the plays and operas of Paris for the winter, that we might have time to ask from our country to exhaust her resources for France, whose depredations would be continued. He again stated, that by this procedure we should suspend a war; and that perhaps in five or six months power might change hands.

We told him that what we wished to see in France was a temper sincerely friendly to the United States, and really disposed to do us justice; that if we could perceive this, we might not so much regard a little money, such as he stated to be usual, although we should hazard ourselves by giving it; but that we saw only evidences of the most extreme hostility toward us: war was made upon us so far as France could make it in the present state of things; and it was not even proposed, that on receiving our money this war should cease; we had no reason to believe that a possible benefit could result from it; and we desired him to say that we would not give a shilling, unless American property unjustly captured was previously restored, and further hostilities suspended; and that unless this was done, we did not conceive that we could even consult our government concerning a loan; that if the Directory would receive us and commence negotiations, and any thing occurred which rendered a consultation of the government necessary, one of us would return to America for that purpose. He said that without this money we should be obliged to quit Paris; and that we ought to consider the consequences: the property of the Americans would be confiscated, and their vessels in port embargoed. We told him that unless there was a hope of a real reconciliation, these evils could not be prevented by us; and the little delay we might obtain would only increase them; that our mission had induced many of our countrymen to trust their vessels into the ports of France, and that if we remained in Paris, that very circumstance would increase the number; and consequently the injury which our countrymen would sustain, if France could permit herself so to violate her own engagements and the laws of nations. He expressed a wish, that M. Y. should see us once more. We told him that a visit from M. Y. as a private gentleman, would always be agreeable to us; but if he came only with the expectation that we should stipulate advances of money, without previously establishing a solid and permanent reconciliation, he might save himself the trouble of the application, because it was a subject we had considered maturely, and on which we were immoveable. He parted with us, saying, if that was the case, it would not be worth while for M. Y. to come. In the evening, while Gen. Pinckney and Gen. Marshall were absent, M. Y. and M. X. called, and were invited by Mr. Gerry to breakfast with us the next morning.

October 30th.

Immediately after breakfast the subject was resumed. M. Y. spoke without interruption for near an hour. He said that he was desirous of making a last effort to serve us, by proposing something which might accommodate the differences between the two nations; that what he was

now about to mention, had not by any means, the approbation of the Directory; nor could M. Talleyrand undertake, further than to make from us the proposition to the Directory, and use his influence for its success: that last week M. Talleyrand could not have ventured to have offered such propositions; but that his situation had been very materially changed by the peace with the emperor: by that peace he had acquired in an high degree, the confidence of the Directory, and now possessed great influence with that body; that he was also closely connected with Buonaparte and the generals of the army in Italy; and was to be considered as firmly fixed in his post, at least for five or six months: that under these circumstances he could undertake to offer, in our behalf, propositions which before this increase of influence, he could not have hazarded. M. Y. then called our attention to our own situation, and to the force France was capable of bringing to bear upon us. He said that we were the best judges of our capacity to resist, so far as depended on our own resources, and ought not to deceive ourselves on so interesting a subject. The fate of Venice was one which might befall the United States. But he proceeded to observe, it was probable we might rely on forming a league with England. If we had such a reliance it would fail us. The situation of England was such, as to compel Pitt to make peace on the terms of France. A variety of causes were in operation which made such an effect absolutely certain. To say nothing of the opposition in England to the minister and to the war, an opposition which the fears of the nation would increase; to say nothing of a war against England which was preparing in the north; an army of one hundred and fifty thousand men, under the command of Buonaparte, spread upon the coast of France, and aided by all the vast resources of his genius, would most probably be enabled to invade England; in which event their government would be overturned: but should this invasion not be absolutely effected, yet the alarm it would spread through the nation, the enormous expense it must produce, would infallibly ruin them, if it was to be continued; and would drive them to save themselves by a peace: that independent of this, France possessed means which would infallibly destroy their bank and their whole paper system. He said he knew very well it was generally conjectured that Buonaparte would not leave Italy, and the army which had conquered under him, and which adored him: he assured [us that] nothing could be more unfounded than the conjecture; that Buonaparte had for more than ten days left Italy for Rastadt, to preside over the congress which was formed for adjusting the affairs of the empire. He said that Pitt himself was so confident of the absolute necessity of peace, that after the naval victory over the Dutch, he had signified his readiness to treat on the same terms which he had offered before that action: we could not then rely on the assistance of England. What, he asked, would be our situation if peace should be made with England before our differences with France would be accommodated? But, he continued, if even England should be able to continue the war, and America should unite with her, it would not be in our power to injure France. We might indeed wound her ally; but if we did, it would be so much the worse for us. After having stated the dangers attending us, if we should engage in the war, he proceeded to the advantages we might derive from a neutral situation: and insisted at large on the wealth which would naturally flow into our country,

from the destruction of England. He next proceeded to detail the propositions which are in substance in the paper annexed, marked (A.) except that he insisted that we should engage to use our influence with our government for the loan. He stated expressly, that the propositions were to be considered as made by us ; that M. Talleyrand would not be responsible for the success of any one of them ; he would only undertake to use his influence with the Directory in support of them. The proposition, he said, concerning a suspension of hostilities on the part of France, was one which proceeded entirely from himself ; M. Talleyrand had not been consulted upon it ; and he could not undertake to say that that gentleman would consent even to lay it before the Directory. The proposition for an advance to the government of France of as much money as was due from it to our citizens on contract, and as might be determined to be due for vessels improperly captured and condemned, was, he said, indispensable : unless we made that it was unnecessary to make any other ; for the others would not be received. He expatiated on the vast advantages we should derive from delay ; it was, he said, absolutely to gain our cause. He returned to the danger of our situation and the policy of making with France any accommodation which France would assent to. Perhaps, said he, you believe that in returning and exposing to your countrymen the unreasonableness of the demands of this government, you will unite them in their resistance to those demands : you are mistaken : you ought to know that the diplomatic skill of France and the means she possesses in your country, are sufficient to enable her, with the French party in America, to throw the blame which will attend the rupture of the negotiations on the Federalists, as you term yourselves, but on the British party, as France terms you ; and you may assure yourselves this will be done. He concluded with declarations of being perfectly disinterested ; and declared that his only motives for speaking thus freely were his friendship for M. Talleyrand, and his wish to promote the interests and peace of the United States. We told him that the freedom with which he had spoken, and which was agreeable to us, would induce us to speak freely also ; and for once to accompany our view of the present state of things with a retrospect of the past : that America was the only nation upon earth which felt and had exhibited a real friendship for the Republic of France : that among the empires round her, which were compelled to bend beneath her power and to obey her commands, there was not one which had voluntarily acknowledged her government, or manifested for it, spontaneously, any mark of regard : America alone had stepped forward and given the most unequivocal proofs of a pure and sincere friendship, at a time when almost the whole European world, when Austria, Germany, Prussia, Russia, Spain, Sardinia, Holland, and Britain, were leagued against France : when her situation was in truth hazardous, and it was dangerous to hold even friendly intercourse with her, America alone stood forward, and openly and boldly avowed her enthusiasm in favour of the Republic, and her deep and sincere interest in its fate. From that time to the present, the government and people of the United States have uniformly manifested a sincere and ardent friendship for France, and have, as they conceive, in no single instance given to this Republic just cause of umbrage : if they have done so, they wish it to be pointed out to them. After the determination of France to break off all regular intercourse with them,

they have sent three Envoys Extraordinary to endeavour to make such explanations as might produce reconciliation : these envoys are prepared to investigate, and wish to investigate any measures which may have given offence ; and are persuaded that they can entirely justify the conduct of their government. To this distant, unoffending, friendly Republic, what is the conduct and the language of France ? Wherever our property can be found she seizes and takes it from us ; unprovoked, she determines to treat us as enemies, and our making no resistance produces no diminution of hostility against us ; she abuses and insults our government, endeavours to weaken it in the estimation of the people, recalls her own minister, refuses to receive ours, and when extraordinary means are taken to make such explanations as may do away misunderstandings, and such alterations in the existing relations of the two countries as may be mutually satisfactory and may tend to produce harmony, the Envoys who bear these powers are not received ; they are not permitted to utter the amicable wishes of their country ; but, in the haughty style of a master, they are told that unless they will pay a sum to which their resources scarcely extend, that they may expect the vengeance of France, and like Venice be erased from the list of nations ; that France will annihilate the only free Republic upon earth, and the only nation in the universe which has voluntarily manifested for her a cordial and real friendship ! what impression must this make on the mind of America, if without provocation France was determined to make war upon us, unless we purchased peace ? We could not easily believe that even our money would save us : our independence would never cease to give offence, and would always furnish a pretext for fresh demands. On the advantages of neutrality it was unnecessary to say any thing : all the efforts of our government were exerted to maintain it ; and we would never willingly part with it. With respect to a political connection with Britain, we told him that America had never contemplated it. Whether the danger he represented that government to be in was or was not real we should not undertake to decide : Britain we believed had much reason to wish for peace ; and France had much reason to wish for peace also : if peace already existed it would not change the course America would pursue. M. Y. manifested the most excessive impatience : he interrupted us and said, This eloquent dissertation might be true : America might have manifested and he believed had manifested great friendship for France, and had just complaints against her ; but he did not come to listen to those complaints. The Minister would, on our request, make for us certain propositions to the Directory ; he had stated them to us ; and all the answer he wished was, yes or no ; did we or did we not solicit the Minister to make the propositions for us ? We told him that without going further into the discussion, we chose to remark one or two things : they were, that the existing treaty gave to France certain advantages which were very essential ; that especially the American coast afforded a protection near two thousand miles in extent to the prizes made by France on her enemies, and refused that protection to the prizes taken from her ; that she might be assured, that in case of war these advantages would be lost for ever. We also told him we were convinced that France miscalculated on the parties in America : that the extreme injustice offered to our country would unite every man against her. M. X. informed

us that M. Talleyrand would not consent even to lay this proposition before the Directory without previously receiving the fifty thousand pounds, or the greater part of it. M. Y. left in writing his propositions, and we returned the answer annexed and marked (B.)

November 1st.

It was at length agreed that we would hold no more indirect intercourse with the government.

November 3d.

M. X. called on us, and told General Pinckney and General Marshall (Mr. Gerry not being within) that M. Y. wished once more to see us. We answered, that we should at any time be glad to see M. Y. as a private gentleman: but that if his object was only to repeat his propositions for money, it was perfectly unnecessary to do so; because on that subject it was impossible for us to change the answer we had already given. We told him further, that we considered it as degrading our country to carry on further such an indirect intercourse as we had for some time submitted to, and had determined to receive no propositions, unless the persons who bore them had acknowledged authority to treat with us. He said that perhaps M. Y. might have written powers from the minister; and we replied, that if he had we should receive his communications with pleasure. He spoke of a probable peace with England, and having requested us to be at home in the afternoon, left us.

About three o'clock he came, and after some conversation, in which we repeated in substance what is stated above, he shewed us a paper, which he said was a copy of a letter prepared for us, by M. Talleyrand, requesting an explanation of part of the President's speech, and which he said would be sent, unless we came into the propositions which had been made us. We wished to take a copy of it, which he declined permitting, saying, he was forbidden to allow it. We spoke of the letter coming to us as a measure we had no expectation of preventing; and he said he could not understand that we wished it delayed. To which we answered, that the delay of a few days could not be desired, unless a hope existed that the Directory might become more friendly to our country. He said that intelligence had been received from the United States, that if Colonel Burr and Mr. Madison had constituted the mission, the differences between the two nations would have been accommodated before this time. He added, as a fact he was not instructed to communicate, that M. Talleyrand was preparing a memorial to be sent out to the United States, complaining of us as being unfriendly to an accommodation with France. We replied to his intelligence from the United States, that the minister's correspondents in America took a good deal on themselves, when they undertook to say how the Directory would have received Colonel Burr and Mr. Madison; and that with respect to the memorial of M. Talleyrand, it would not be easy for him to convince our countrymen, that the statements we should make were untrue: if, however, we were confident that our conduct would be condemned, M. Talleyrand might be assured that the fear of censure would not induce us to deserve it: but that we should act in a manner which our own judgments and consciences would approve of; and we trusted we should be supported by the great body of candid and honest men. In this conversation we again stated, that America had taken a neutral position; that she had faithfully sought to preserve it; that a loan of money to one of the bellige-

reat powers was directly to take part in the war ; and that to take part in the war against her own judgment and will, under the coercion of France, was to surrender our independence.

E X H I B I T (A.)

[*Enclosed in the Envoys' Letter No. 2. dated November 8th, 1797.*]

I. The American Envoys shall remain here for six months, in the same manner and upon the same footing, with regard to etiquette, as did M. D'Aranjo, the Envoy of Portugal.

II. There shall be named a commission of five members, agreeably to a form to be established, for the purpose of deciding upon the reclamations of the Americans, relative to the prizes made on them by the French privateers.

III. The American Envoys will engage, that their government shall pay the indemnifications, or the amount of the sums already decreed to the American creditors of the French Republic, and those which shall be adjudged to the claimants by the commissioners. This payment shall be made under the name of an advance to the French Republic, who will repay it in a time and manner to be agreed upon.

IV. One of the American Envoys shall return to America, to demand of his government the necessary powers to purchase, for cash, the thirty-two millions of Dutch rescriptions, belonging to the French Republic, in case the Envoys should conclude a treaty which shall be approved by the two nations.

V. In the interval, the definitive treaty shall proceed for the termination of all differences existing between the French Republic and the United States, so as that the treaty may be concluded immediately on the return of the deputy.

VI. The question of the rôle d'équipage shall remain suspended until the return of the deputy, and the commission shall not pronounce upon any reclamation where this point shall be in question.

VII. During the six months granted for the going and returning of the deputy, hostilities against the Americans shall be suspended as well as the process for condemnation before the tribunals; and the money of the prizes already condemned, in the hands of the civil officers of the nation, shall remain there, without being delivered to the privateers-men, until the return of the deputy.

E X H I B I T (B.)

[*Received with the Envoys' Letter No. 2. dated 8th November, 1797.*]

The Envoys Extraordinary and Ministers Plenipotentiary of the United States, cannot avoid observing the very unusual situation in which they are placed, by the manner in which they are alone permitted to make communications on the objects of their mission: They are called upon to pledge their country to a very great amount, to answer demands which appear to them as extraordinary as they were unexpected, without being permitted to discuss the reason, the justice, or the policy on which those demands are founded, and not only without assurances that

the rights of the United States will in future be respected; but without a document to prove that those to whom they are required to open themselves without reserve, and at whose instance they are called on to sacrifice so much, are empowered, even by the minister, to hold any communication with them: Yet such is the anxious and real solicitude of the Envoys to seize any occasion which may afford a hope, however distant, of coming to those explanations which they so much wish to make with this Republic, that they pass over the uncommon and informal modes which have been adopted, and will only consider the propositions themselves.

I. The Ministers of the United States will permit no personal considerations to influence their negotiations with the French Republic. Although they expected that the extraordinary means adopted by their government to reconcile itself to that of France would have been received with some degree of attention, yet they are too solicitous to enter upon the important and interesting duty of their mission to permit themselves to be restrained by forms or etiquette.

II. On this article it is believed there can be no disagreement.

III. This article, as explained, would oblige the United States to advance, not to their own citizens, but to the government of France, sums equivalent to the depredations made by the corsairs of the Republic on the American commerce, and to the contracts made with their citizens by France; and this advance, instead of benefitting the citizens of the United States, would leave them precisely what they now are, the creditors of the French Republic: the more extensive the depredations and the more considerable the contracts uncomplished with, the more would the government of France receive from the United States. Independent of these objections, the Ministers of the United States cannot engage to assume, in any form, the debts due from France to their fellow-citizens: they have no such power.

IV. If the negotiations be opened, and the propositions for a loan, or any other propositions, exceeding the powers of the Ministers, be made, the government of the United States will be consulted thereon with expedition.

V. This, or any proposition having for its object the claims of the two nations on each other, or an accommodation of differences, will be embraced with ardour by the Ministers of the United States.

VI. It cannot escape notice, that the question of the rôle d'équipage may involve in it every vessel taken from the United States: the Ministers however consider it, and wish to take it up, as a subject of negotiation.

VII. On this article it is only to be observed, that the season of the year is such, as probably to render a return, within six months, of the Envoy, who might sail to the United States, impracticable: provision should be made for such an event.

If the difficulties attending the propositions for a loan and a compensation for past injuries be such as to require time for their removal, the Ministers of the United States propose that the discussions on the relative situation of the two countries, may commence in the usual forms; that the relation to each other may be so regulated, as to obviate future misunderstandings; and that the adjustment of the claims of the citizens

of the United States, whose vessels have been captured, may be made after a decision on the point first mentioned.

No diplomatic gratification can precede the ratification of the treaty.

(No. 3.)

Paris, November 27th, 1797.

DEAR SIR,

ON the 11th instant we transmitted the following official letter to the Minister of Foreign Affairs.

" CITIZEN MINISTER,

" The undersigned Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the French Republic, had the honour of announcing to you officially on the sixth of October, their arrival at Paris, and of presenting to you on the eighth, a copy of their letters of credence. Your declaration at that time, that a report on American affairs was then preparing, and would in a few days be laid before the Directory, whose decision thereon should, without delay, be made known, has hitherto imposed silence on them. For this communication they have waited with that anxious solicitude which so interesting an event could not fail to excite, and with that respect which is due to the government of France. They have not yet received it; and so much time has been permitted to elapse, so critical is the situation of many of their countrymen, and so embarrassing is that of the undersigned, both as it respects themselves and the government they represent, that they can no longer dispense with the duty of soliciting your attention to their mission.

" The United States, Citizen Minister, at an epoch which evinced their sincerity, have given incontestible proofs of their ardent friendship, of their affection for the French Republic: these were the result, not of her unparalleled prowess and power, but of her confidence in her justice and magnanimity; and in such high estimation was the *reciprocity* of her friendship held by them, as to have been a primary object of national concern. The preservation of it was dear to them, the loss of it a subject of unfeigned regret, and the recovery of it, by every measure which shall consist with the rights of an independent nation, engages their constant attention. The government of the United States, we are authorized to declare, has examined, with the most scrupulous justice, its conduct towards its former friend. It has been led to this by a sincere desire to remove, of itself, every just cause of complaint; conceiving that, with the most upright intentions, such cause may possibly exist; and although the strictest search has produced no self-reproach, although the government is conscious that it has uniformly fought to preserve, with fidelity, its engagements to France, yet far from wishing to exercise the privilege of judging for itself, on its own course of reasoning and the lights in its own possession, it invites fair and candid discussion; it solicits a reconsideration of the past; it is persuaded its intentions, its views, and its actions must have been misrepresented and misunderstood; it is convinced that the essential interests of both nations will be promoted by reconciliation and peace; and it cherishes the hope of meeting with similar dispositions on the part of the Directory.

" Guided by these sentiments, the President of the United States has given it in charge to the undersigned to state to the Executive Directory

the deep regret which he feels at the loss or suspension of the harmony and friendly intercourse which subsisted between the two Republics, and his sincere wish to restore them ; to discuss candidly the complaints of France, and to offer frankly those of the United States : and he has authorized a review of existing treaties, and such alterations thereof as shall consist with the mutual interest and satisfaction of the contracting parties.

“ This task the undersigned are anxious to commence ; and truly happy will they be, if their exertions can in any degree contribute to restore that friendship, that mutual interchange of good offices which it is alike their wish and their duty to effect between the citizens of the two republics.

“ The undersigned pray you, Citizen Minister, to present this communication to the Executive Directory, and to receive the assurances of their most perfect consideration.

(Signed)

CHARLES COTESWORTH PINCKNEY,
J. MARSHALL,
ELBRIDGE GERRY.

Paris, November 11th, in the 22d year of American Independence.

To the Minister of Foreign affairs
of the French Republic.”

No answer having been given to it on the 21st instant, we requested Major Rutledge to wait on the minister, and enquire of him whether he had communicated the letter to the Directory, and whether we might expect an answer : He replied that he had submitted our letter to them, and that they would direct him what steps to pursue, of which we should be informed. We have not, however, hitherto received any official intimation relative to this business : we are not yet received ; and the condemnation of our vessels for want of a rôle d'équipage is unremittingly continued. Frequent and urgent attempts have been made to inveigle us again into negotiation with persons not officially authorized, of which the obtaining of money is the basis : but we have persisted in declining to have any further communication relative to diplomatic business with persons of that description ; and we mean to adhere to this determination. We are sorry to inform you, that the present disposition of the government of this country appears to be as unfriendly towards us as ever, and that we have very little prospect of succeeding in our mission.

We have the honour to be

Your most obedient humble servants,

CHARLES COTESWORTH PINCKNEY,
J. MARSHALL,
E. GERRY.

Col. PICKERING.

(No. 4.)

Paris, December 24th, 1797.

DEAR SIR,

WE have not yet received any answer to our official letter to the minister of foreign affairs, dated the eleventh of last month, and mentioned in number three : but reiterated attempts have been made to engage us in negotiation with persons not officially authorized ; and you will find by the exhibits marked A, B, and C, herewith sent, some important information relative to the views and intentions of the French government with respect to ours. We are all of opinion, that if we were to remain here for six months longer, without we were to stipulate the payment of money, and a great

deal of it, in some shape or other, we should not be able to effectuate the objects of our mission, should we be even officially received : unless the projected attempt on England was to fail, or a total change take place in the persons who at present direct the affairs of this government. In this situation of matters, we are determined, by the tenth of next month, should they remain as they are, to transmit another letter to the minister, representing, as far as may be expedient, the views of our government..

We have the honour to be,

With great respect and regard,

Your most obedient humble servants,

CHARLES COTESWORTH PINCKNEY,

J. MARSHALL,

E. GERRY.

Col. PICKERING, }
Secretary of State. }

E X H I B I T (A.)

[*Inclosed in the Envoys' Letter, No. 4.*]

On the 14th of December, M. X. called on me, in order, as he said, to gain some information relative to some lands in purchased by for whom Soon afterwards General Marshall came in, and then Mr. Gerry's carriage drove into the yard. Here is Mr. Gerry, said General Marshall. I am glad of it, said M. X. for I wished to meet all of you gentlemen, to inform you that M. Y. had another message to you from M. Talleyrand. I immediately expressed my surprise at it, as M. Talleyrand, M. Y. and he, all knew our determination to have no further communication on the subject of our mission, with persons not officially authorised. He replied, that determination was made six weeks ago ; and it was presumed that we had changed our opinion. I said that I had not ; and I did not believe my colleagues had. At that moment Mr. Gerry entered the room, and I privately acquainted him with the object of M. X.'s visit. General Marshall, Mr. Gerry, and myself then withdrew into another room ; and immediately agreed to adhere to our former resolution. M. X. was then called in ; when I acquainted him, in a few words, with our determination : and Mr. Gerry expatiated more at large on the propriety of our acting in this manner, and on the very unprecedented way in which we had been treated, since our arrival.

On the twentieth of December, a lady, who is well acquainted with M. Talleyrand, expressed to me her concern, that we were still in so unsettled a situation : but, adds she, why will not you lend us money ? If you would but make us a loan, all matters would be adjusted : and she added, when you were contending for your revolution, we lent you money. I mentioned the very great difference there was between the situation of the two countries at that period and the present ; and the very different circumstances under which the loan was made us, and the loan was now demanded from us. She replied, we do not make a demand ; we think it more delicate that the offer should come from you : but M. Talleyrand has mentioned to me (who am surely not in his confidence) the necessity of your making us a loan : and I know that he has mentioned it to two or three others ; and that you have been informed of it : and I will assure you, that if you remain here six months longer, you would not advance a single step further in your negotiations, without a loan. If that is the case, I replied, we may as well go away now. Why that possibly, said she, might lead to a rupture ; which you had better avoid : for we know we have a very considerable party in America, who are strongly in our interest.—There is no occasion to enter into a further detail of the conversation. I have only noted this part of it as expressive of what I believe (as far as relates to the loan and a party in

America in their favour) to be the sentiments of the French government with regard to us.

CHARLES COTESWORTH PINCKNEY.

December 21st, 1797.

E X H I B I T B.

[*Inclosed in the Envoy's Letter, No. 4.*]

Extract from General Marshall's Journal.

December 17th, 1797. I stepped into Mr. Gerry's apartment, where I saw M. Y. He expressed his regret at having been disabled to dine with us at M. de Beaumarchais, by an inveterate tooth-ache. He then asked me whether I had seen M. de Beaumarchais lately? I told him, not since he dined with us; and that he had left us much indisposed. He then observed, that he had not known until lately, that I was the advocate for that gentleman in his cause against the state of Virginia; and that M. de Beaumarchais, in consequence of that circumstance, had expressed sentiments of high regard for me. I replied, that M. de Beaumarchais' cause was of great magnitude, very uncertain issue,—and consequently, that a portion of the interest he felt in it, would very naturally be transferred to his advocate. He immediately said, (low and apart) that M. de Beaumarchais had consented, provided his claim could be established, to sacrifice fifty thousand pounds sterling of it, as the private gratification which had been required of us; so that the gratification might be made without any actual loss to the American government. I answered, that a gratification on any terms, or in any form, was a subject which we approached with much fear and difficulty, as we were not authorized by our government to make one; nor had it been expected that one would be necessary: that I could not undertake to say whether my colleagues would consent to it, in any state of things; but I could undertake to say, no one of us would consent to it, unless it was preceded or accompanied by a full and entire recognition of the claims of our citizens, and a satisfactory arrangement on the objects of our mission. He said, it was in the expectation of that event only that he mentioned it. We parted: and I stated the conversation to General Pinckney, who was disinclined to any stipulation of the sort, and considered it as a renewal of the old reprobated system of indirect, unauthorized negotiation.

Having been originally the counsel of M. de Beaumarchais, I had determined, and so I had informed General Pinckney, that I would not, by my voice, establish any agreement in his favour; but that I would positively oppose any admission of the claim of any French citizen, if not accompanied with the admission of the claims of the American citizens for property captured and condemned for want of a rôle d'équipage. My reason for conceiving that this ought to be stipulated expressly, was a conviction, that if it was referred to commissioners, it would be committing absolutely to chance, as complete a right as any individuals ever possessed. General Pinckney was against admitting the claim at any rate.

After my return, Mr. Gerry came into my room, and told me that M. Y. had called on him, to accompany him on a visit to M. Talleyrand;

that he proposed seeing M. Talleyrand, and returning the civility of the dinner; and endeavouring to bring about some intercourse between him and us.

December 18. General Pinckney and Mr. Gerry met in my room; and Mr. Gerry detailed to us the conversations mentioned in our public letter. The proposition relative to the claim of M. de Beaumarchais is entirely different from my understanding of it, in the very brief statement made to me by M. Y. We resolved that we would rigidly adhere to the rule we had adopted, to enter into no negotiation with persons not formally authorized to treat with us. We came also to the determination to prepare a letter to the Minister of Foreign Relations, stating the object of our mission, and discussing the subjects of difference between the two nations, in like manner as if we had been actually received; and to close the letter with requesting the government to open the negotiation with us, or to grant us our passports.

E X H I B I T C.

[*Inclosed in the Envoys' Letter, No. 4.*]

December 13. Mr. Gerry accidentally calling on General Pinckney, found M. X. and was soon informed, that his object was to obtain another interview between the Ministers and M. Y. on the affairs of their mission. General Marshall happening also to be there, we retired into another room, and immediately agreed to adhere to our former determination, not to have any more informal communications. M. X. having been called in, General Pinckney briefly communicated our determination: and Mr. Gerry observed, that he was much hurt by this proposition; that the Ministers had already proceeded farther in this mode of communication than perhaps they could justify; that they had refused, six weeks ago, to renew it; and that some regard ought to be paid to their feelings, which had been sufficiently mortified; that the proposition was disrespectful to the Envoys, as it betrayed a belief, that they had lost the sense of their dignity, and were indeed incompetent to their office; that had there been but one Envoy Extraordinary, he ought to have had an audience in a few days; and that for three to remain between two and three months in this situation, was too humiliating, too debasing, for any nation to submit to it; that for his own part, had he been sent to any other nation in Europe, with two other Envoys, he would not have consented to have remained in such a state ten days; that knowing the great desire of the government and nation of the United States to be at peace with France, he had, with his colleagues, submitted to this indignity, at the risque of the severe censure of the former.— Having also enquired of M. X. at what time M. Talleyrand could be seen, the former said he would enquire of M. Y. who on the 16th, in the evening, sent, in Mr. Gerry's absence from his lodgings, a billet as follows: "M. Y. has the honor to present his respects to Mr. Gerry, and to inform him, that he will have the honor to wait on him to-morrow morning, at ten o'clock, to go together to the Minister of Foreign Relations. He is with respect," &c. On the morning of the 17th, M. Y. came in while Mr. Gerry was at breakfast, not having received an answer to his note: and Mr. Marshall coming in, M. Y. took him aside, and

conferred with him a considerable time; after which, the former, and the rest of the family, left the room: and M. Y. and Mr. Gerry being together, Mr. Gerry told him, that his object in seeing M. Talleyrand was to return a civility, by requesting him to fix a day for dining with Mr. G. who intended to invite his colleagues; by this interview to promote, if possible, a better understanding between the Minister and the American Envoys; and Mr. G. also proposed to confer with the Minister on the disagreeable situation the Envoys were in, and to state to him some reports which appeared to be founded, respecting a proposition before the Directory for sending off all Americans in a short period: but Mr. Gerry added, that he could not hear a word on the subject of the mission, or the preliminaries to a negotiation, as the Envoys had determined unanimously against any informal communications on the subject. M. Y. in answer said, that Mr. Marshall had just heard him on a subject of this kind; and that we might consider it, as he did, merely as a conversation between ourselves. He then stated that two measures, which M. Talleyrand proposed, being adopted, a restoration of friendship between the republics would follow immediately; the one was a gratuity of fifty thousand pounds sterling; the other a purchase of thirty-two millions of the Dutch rescriptions: that as to the first, M. de Beaumarchais had recovered, in a cause depending in Virginia, between that state and himself, one hundred and forty-five thousand pounds sterling; that there was an appeal from the judgment; that he would sign an act to relinquish forty-five thousand pounds, if the whole should be finally recovered, leaving only one hundred thousand pounds for himself; that the forty-five thousand pounds might accrue to the United States, who would, in that case, lose but a small part of the fifty thousand pounds; that the purchase of sixteen millions of rescriptions would amount to but one million, three hundred and thirty three thousand [pounds,] six shillings, and eight pence sterling, which, with an interest of five per cent. would be certainly paid by the government of Holland to the United States, and leave them without any loss; that more than half the sum may now be hired in Holland, on the credit of the rescriptions, and an easy arrangement be made for payment, by short instalments, which might be obtained also by a loan; that it was worthy the attention of the Envoys to consider, whether by so small a sacrifice they would establish a peace with France, or whether they would risk the consequences; that if nothing could be done by the Envoys, arrangement would be made forthwith to ravage the coasts of the United States by frigates from St. Domingo; that small states which had offended France were suffering by it; that Hamburgh, and other cities in that quarter, would, within a month or two, have their government changed; that Switzerland would undergo the same operation; and that Portugal would probably be in a worse predicament; that the expedition against England would be certainly pursued; and that the present period was the most favourable, if we wished to adopt any measure for a pacification. —Mr. Gerry, in answer, said, that if the French were disposed to pursue with vengeance the United States, they might perhaps ravage their coasts, and injure them in this way, but they never could subdue them: the measure he thought utterly impracticable, even if attempted by France and her allies. To which M. Y. assented. Mr. Gerry observed further, that the ravages alluded to would undoubtedly closely connect

the United States and Great Britain, and prevent the former from returning to the friendship which they have ever had for France: that as to the propositions, he should express no opinion on them; that his situation, and that of his colleagues, was extremely difficult; that the Directory were exclusively prejudiced against the government of the United States, and considered them as the friends of Great Britain; that if the Envoys could have an opportunity of being heard, they could remove such impressions, and show that the government were the friends of France as much as of Great Britain; but that the Envoys were now in the most painful situation; that they were treated, in the eyes of all Europe, and of the American government and nation, with the utmost contempt; and were submitting to indignities which they could not reconcile to their feelings, or justify to their constituents. M. Y. said that the observations were just: but that the American Envoys had not experienced worse treatment than other ministers, nor indeed as bad; that the Envoy of Portugal was again ordered to depart; and that but little ceremony was observed to the Envoys in general. M. Y. and Mr. Gerry then took a ride to M. Talleyrand's Bureau, who received them politely: and after being seated, Mr. Gerry observed to M. Talleyrand, in English, slowly, that M. Y. had stated to him, that morning, some propositions as coming from M. Talleyrand, respecting which Mr. Gerry could give no opinion: that his object at this interview was, to request of him information whether he would fix a time for taking a dinner with Mr. Gerry, at which he proposed to invite his colleagues; that he wished for more frequent interviews of some kind or other between himself and the Envoys; conceiving that many imaginary difficulties which obstructed the negotiation, would vanish by this means; and that those which were real, would be surmounted: that conceiving the delicate part which the Minister of France had to act at this time, he did not wish M. Talleyrand to accept the invitation, if it would subject him to inconveniences: that he wished to speak on another subject; and it was painful to him to acknowledge, that the precarious situation of the Envoys was such, as to render it impossible for them to take measures for decent arrangements; that a short time since, he had supposed measures were taking a favorable turn; but that lately he had received, from various quarters, information of a report made by the minister of the interior, and under the consideration of the Directory, for sending all Americans from Paris in twenty-four hours; that he could not be responsible for the truth of the information, but it appeared to him, as well from the various quarters from which it came, as from the intelligence of the person who gave it, to be highly probable; that if this was the case, it was unnecessary for the directory, as he conceived, to pass any arrête, as it respected the Envoys, for that they would depart from Paris whenever it was hinted as the wish of the Directory; that for his own part, he should feel more at ease, until we were received, to reside in a city of some other nation than that of France; and to return to Paris on notice that the Directory were disposed to open the negotiation. M. Talleyrand appeared to be very uneasy at this declaration; but avoided saying a word on it. He said that the information M. Y. had given me was just, and might always be relied on: but that he would reduce to writing his propositions; which he accordingly did; and after he had shown them to Mr. Gerry, he burnt the paper. The substance was as follows. [See No. 1. page 45.]

He then said, that he accepted of the invitation ; that he would dine with him the decade after the present, in which he was engaged.

Mr. Gerry did not repeat all that he had said to M. Y. having no doubt he would communicate the whole to M. Talleyrand. And, after expressing a friendship for the French Republic, and a warm desire to renew the former attachments of the two republics, which M. Talleyrand warmly reciprocated, Mr. Gerry bid M. Talleyrand adieu ; leaving with him M. Y.

(No. 1.)

That the Envoys should come forward generally, and say :

“ France has been serviceable to the United States, and now they wish to be serviceable to France : understanding that the French Republic has sixteen millions of Dutch rescriptions to sell, the United States will purchase them at par, and will give her further assistance when in their power.

“ The first arrangement being made, the French government will take measures for re-imbursing the equitable demands of America arising from prizes, and to give free navigation to their ships in future.”

(No. 5.)

Paris, January 8th, 1798.

DEAR SIR,

WE embrace an unexpected opportunity to send you the ‘Redacteur’ of the fifth instant, containing the message of the Directory to the Council of Five Hundred, urging the necessity of a law to declare as good prize, all neutral ships having on board merchandizes and commodities, the production of England, or of the English possessions, that the flag, as they term it, may no longer cover the property :—And declaring further, that the ports of France, except in case of distress, shall be shut against all neutral ships, which, in the course of their voyage shall have touched at an English port. A commission has been appointed to report on the message, and it is expected that a decree will be passed in conformity to it.

Nothing new has occurred since our last, in date of the twenty-fourth ultimo. We can only repeat that there exists no hope of our being officially received by this government, or that the objects of our mission will be in any way accomplished.

We have the honour to be,

With great respect,

Your most obedient servants,

CHARLES COTESWORTH PINCKNEY,

J. MARSHALL,

E. GERRY.

Timothy Pickering, Esquire.

Postscript to a triplicate of the Envoys’ letter, No. 5, received 30th March, 1798.

The law abovementioned has been passed unanimously by the Council of Five Hundred, and we inclose a journal containing the account. There is no doubt, but that it will be adopted, without opposition, by the Council of Ancients.

TRANSLATION.

Message to the Council of Five Hundred, of the 15th Nivose, 6th year, (4th of Jan. 1798.)

CITIZENS REPRESENTATIVES,

On this day, the fifteenth of Nivose, and at the very hour at which the Executive Directory addresses this message to you, the municipal administrators, the justices of the peace, the commissaries of the Directory, and the superintendants of the customs, are proceeding, in all the chief places of the departments, in all the ports, and in all the principal communes of the republic, to seize the English merchandize now in France, or introduced into its territory in contravention of the law of the tenth Brumaire, fifth year, (Oct. 31st, 1796.)

Such is the first act by which, now that peace is given to the continent, the war declared long since against England, is about to assume the real character which becomes it. The French will not suffer a power, which seeks to found its prosperity upon the misfortune of other nations, to raise its commerce upon the ruin of that of other states, and which, aspiring to the dominion of the seas, wishes to introduce, every where, the articles of its own manufacture, and to receive nothing from foreign industry—any longer to enjoy the fruit of its guilty speculations.

The English government has kept in pay, during the war, the coalesced forces with the produce of its manufactures. It has violated all the principles of the law of nations, in order to shackle the relations of neutral powers; it has caused to be seized the provisions, corn, and commodities, which it supposed to be destined for France: it has declared contraband every thing which it thought could be useful to the Republic—it desired to starve it. All the citizens call for vengeance.

When it had to fear the capture of vessels sailing under its flag, it corrupted foreign captains to induce them to take on board their vessels English merchandize, and thus to introduce it, by stratagem, by fraud, or otherwise, into other states, and especially into the French Republic.

The neutral powers should have perceived, that, by this conduct, their merchants took part in the war, and that they lent assistance to one of the belligerent powers.

We serve a party, as well when we procure for it the means of augmenting its forces, as when we unite ourselves to those which it has. The neutral powers should have perceived, that England, by stopping the vessels of other powers, laden in their respective ports, and destined for France, by permitting articles coming from her own manufactories alone to circulate, aimed at an exclusive commerce, and that it would be necessary to seek reparation for such an attempt.

The ordinance of the marine, and the regulation of 1704, have declared lawful prize, the vessels and their cargoes in which is found English merchandize belonging to enemies. These provisions should be extended. The interest of Europe requires it.

The Directory thinks it urgent and necessary to pass a law, declaring, that the character of vessels, relative to their quality of neutral or enemy, shall be determined by their cargo, and the cargo shall be no longer covered by the flag: in consequence, that every vessel found at sea, having on board English provisions and merchandize as her cargo, in whole or in part, shall be declared lawful prize, whosoever may be the

proprietor of these provisions or merchandize; which shall be reputed contraband, for this cause alone, that they come from England or her possessions.

It would be useful to declare, at the same time, that except in the case of distress, the ports of the Republic shall be shut to all foreign vessels, which, in the course of their voyage, shall have entered those of England.

The Executive Directory requests you, citizens representatives, to adopt these measures. No neutral or allied power can mistake their object, nor complain of them, unless it be already abandoned to England. The infallible effect of the measure is to enhance the value of the produce of their own soil and industry, to increase the prosperity of their commerce, to repel every thing that comes from England, and essentially to influence the conclusion of the war.

Such are the motives which induce the Executive Directory to invite you, citizens representatives, to take the object of this message into the most prompt consideration.

(Signed)

P. BARRAS, President.

LAGARDE, Secretary-General.

Plan of a Decree reported by M. Villers to the Council of Five Hundred, in its sitting of the 11th of January, 1798, translated from a Paris paper, entitled Journal du Soir, of the same day, inclosed in the triplicate of the Envoy's letter, No. 5, dated 8th January, 1798.

“ First, The character of a vessel, relative to the quality of neuter or enemy, is determined by her cargo.

“ In consequence, every vessel loaded in whole or in part with English merchandize, is declared lawful prize, whoever the owner of the said merchandize may be.

“ 2d, Every foreign vessel which, in the course of her voyage, shall have entered an English port, shall not enter France, except in case of distress: she shall depart thence as soon as the causes of her entry shall have ceased.”

This decree was immediately and unanimously adopted.

MESSAGE of the PRESIDENT of the UNITED STATES, to
both Houses of CONGRESS.

Gentlemen of the Senate, and

Gentlemen of the House of Representatives,

I NOW transmit to Congress copies of all the communications, from our Envoys Extraordinary, received since their arrival in Paris, excepting those before presented by me to both Houses.

JOHN ADAMS.

United States, }
May 4th, 1798. }

(No. 6.)

Paris, February 7th, 1793.

DEAR SIR,

WE transmit to you, in this inclosure, our last letter to the Minister of Foreign Relations. Though dated the 17th ult. it was not, on account of the time taken to translate so long a letter, delivered till the 31st. In our communications here, although we have, agreeably to your instructions, written in our own language, we have at the same time taken the precaution, lest our meaning should be misrepresented or misunderstood, to accompany them with an accurate translation. We have not yet received any answer to this communication, and should no notice be taken of it in a few days, we shall apply in a more explicit manner for our passports.

The Councils have passed the decree mentioned in No. 5, as having been recommended by the Directory, to capture and condemn all neutral vessels laden in part or in whole with the manufactures or productions of England or its possessions. We inclose you the official copy of the report on that subject, and shall represent to this government the injustice and injury which it must inevitably occasion us.

We have the honor to be,

With great respect,

Your most obedient humble servants,

CHARLES COTESWORTH PINCKNEY,

J. MARSHALL,

E. GERRY.

Colonel Pickering, Secretary }
of the United States. }

To the Minister of Foreign Affairs of the French Republic.

Citizen Minister,

THE undersigned Ministers Plenipotentiary and Envoys Extraordinary from the United States of America to the French Republic, have been hitherto restrained by the expectation of entering on the objects of

their mission in the forms usual among nations, from addressing to the Executive Directory, thro' you, those explanations and reclamations with which they are charged by the government they represent. If this expectation is to be relinquished, yet the unfeigned wish of the United States to restore that harmony between the two republics, which they have so unremittingly sought to preserve, renders it the duty of the undersigned to lay before the government of France, however informal the communication may be deemed, some considerations, in addition to those heretofore submitted, relative to the subsisting differences between the two nations.

Openly and repeatedly have France and America interchanged unequivocal testimonials of reciprocal regard. These testimonials were given by the United States, with all the ardor and sincerity of youth. It is still believed that on the part of France they were likewise the offspring of real esteem. They were considered on the other side of the Atlantic as evidencing a mutual friendship to be as durable as the Republics themselves. Unhappily the scene is changed; and America looks around in vain for the ally or the friend. The contrast both of language and of conduct, which the present so avowedly exhibits to a portion of the past, has been repeatedly attributed by France, to a disposition alledged to exist in the government of the United States, unfriendly to this Republic, and partial towards its enemies.

That government, astonished at a reproach, so unfounded in fact, so contradicted by its declarations and its conduct, could scarcely consider the charge as serious, and has ever cherished the hope, that a candid review of its conduct founded on the documents, and aided by the arguments with which the Executive Directory has been furnished would have rescued it from the injurious suspicion. This hope seems not to have been realized. The undersigned, therefore, deem it proper to precede their application for that justice which they claim from France, by an effort to remove the cause, which is alledged to have produced the injuries of which they complain. With this view, they pray the attention of the Executive Directory to a serious and candid reconsideration of the leading measures adopted by the government of the United States, and they persuade themselves, that however various and multiplied the channels may be thro' which misinformation, concerning the dispositions of that government, may have been received; yet this reconsideration must remove unfounded prejudices and entirely exculpate the American nation from an accusation it knows to be unfounded, and believes to be supported by no single fact.

When that war which has been waged with such unparalleled fury, which, in its vast vicissitudes of fortune, has alternately threatened the very existence of the conflicting parties, but which, in its progress, has surrounded France with splendor, and added still more to her glory than to her territory, when that war first involved those nations with whom the United States were in habits of friendly intercourse, it became incumbent on their government to examine their situation, their connexions and their duties. America found herself at peace with all the belligerent powers. She was connected with some of them by treaties of amity and commerce, and with France by a treaty of alliance also. These several treaties were considered with the most serious attention, and with a sincere wish to determine by fair construction the obligations which they really imposed.—The result of this enquiry was a full conviction, that her engagements by no means bound her to take part in the war, but left her so far the mistress of her own conduct as to be at perfect liberty to observe a system of real neutrality. It is deemed unnecessary to analyze those treaties in order to support the propriety of this decision, because it is not recollected ever to have been questioned and is believed not to admit of doubt.

Being bound by no duty to enter into the war, the government of the United States conceived itself bound by duties the most sacred to abstain from

it. Contemplating man, even in a different society, as the natural friend of man, a state of peace, though unstipulated by treaty, was considered as imposing obligations not to be wantonly violated.

These obligations, created by the laws of nature, were in some instances strengthened by solemn existing engagements, of which good faith required a religious observance.

To a sense of moral right, other considerations of the greatest magnitude were added, which forbade the government of the United States to plunge them unnecessarily into the miseries of the bloody conflict then commencing. The great nations of Europe either impelled by ambition, or by existing or supposed political interests, peculiar to themselves, have consumed more than a third of the present century in wars. Whatever causes may have produced so afflicting an evil, they cannot be supposed to have been entirely extinguished, and humanity can scarcely indulge the hope, that the temper or condition of man is so altered as to exempt the next century from the ills of the past. Strong fortifications, powerful navies, immense armies, the accumulated wealth of ages and a full population, enable the nations of Europe to support those wars in which they are induced to engage, by motives which they deem adequate, and by interests exclusively their own. In all respects different is the situation of the United States: possessed of an extensive unsettled territory, on which bountiful nature has bestowed, with a lavish hand, all the capacities for future legitimate greatness, they indulge no thirst for conquest, no ambition for the extension of their limits. Encircled by no dangerous powers, they neither fear, nor are jealous of their neighbours, and are not on that account obliged to arm for their own safety. Separated from Europe by a vast and friendly ocean, they are but remotely, if at all, affected by those interests, which agitate and influence this portion of the globe. Thus circumstanced, they have no motive for volutary war. On the contrary, the most powerful considerations urge them to avoid it.—An extensive and undefended commerce, peculiarly necessary to a nation which does not manufacture for itself, which is, and for a long time to come, will be almost exclusively agricultural, would have been its immediate and certain victim. The surplus produce of their labour must have perished on their hands, and that increase of population, so essential to a young country, must, with their prosperity, have sustained a serious check. Their exertions too would not have been considerable, unless the war, had been transferred to their own bosom.

Great as are the means and resources of the United States for self-defence, it is only in self-defence that those resources can be completely displayed. Neither the genius of the nation, nor the state of its finances, admit of calling its citizens from the plough, but to defend their own liberty and their own fire-sides. How criminal must have been that government which could have plunged its constituents into a war, to which they were neither impelled by duty or solicited by interest; in which they committed so much to hazard; in which they must suffer, in order to act efficiently, and could only display their energy in repelling invasion? But motives still more powerful than the calamities of the moment, have influenced the government of the United States.

It was perhaps impossible to have engaged voluntarily in the existing conflict, without launching into the almost boundless ocean of European politics, without contracting habits of national conduct, and forming close political connections which must have compromised the future peace of the nation, and have involved it in all the future quarrels of Europe. A long train of armies, debts and taxes, checking the growth, diminishing the happiness, and perhaps endangering the liberty of the United States, must have followed the adoption of such a system. And for what purpose should it have been adopted? For what purpose should America thus burthen herself with the conflicts of Europe?—Not to comply with any engagements

she has formed ; not to promote her own views, her own objects, her own happiness, or her own safety ; but to move as a Satellite around some greater Planet, whose laws she must of necessity obey. In addition to these weighty considerations, it was believed that France would derive more benefit from the neutrality of America, than from her becoming a party in the war.

The determination then of the government of the United States to preserve that neutral station, in which the war found them, far from manifesting a partiality for the enemies of France, was only a measure of justice to itself and to others, and did not even derogate from that predilection for this republic, which it has so repeatedly expressed and displayed. Having avowed this determination, increased motives of honor and of duty commanded its faithful observance. It is not a principle which remains now to be settled, that a fraudulent neutrality is no neutrality at all ; and that the nation, which would be admitted to its privileges, must also perform the duties it enjoins. Had the government of the United States, declared itself neutral, indulged its partialities by granting favours unstipulated by treaty, to one of the belligerent powers, which it refused to another, it could no longer have claimed the immunities of a situation of which the obligations were forgotten, it would have become a party to the war, as certainly as if war had been openly and formally declared, and it would have added to the madness of wantonly engaging in such a hazardous conflict, the dishonor of insincere and fraudulent conduct : it would have attained circuitously an object which it could not plainly avow, or directly pursue, and would have tricked the people of the United States into a war, which it could not venture openly to declare.

It was matter of real delight to the government and people of America, to be informed that France did not wish to interrupt the peace they enjoyed.

The undersigned have been induced to rest upon this first, necessary and decisive step, taken by their government, altho' its propriety may not be controverted, from a conviction, that if the right of the United States, to observe a fair and honest neutrality be established, the general charges of an unfriendly disposition, made against them by France, must be relinquished, because the facts, by which those charges are supported, will be found to have grown inevitably out of that situation.

This measure was accompanied by another, which, in repelling so astonishing a charge as partiality for the enemies of France, deserves to be noticed. Soon after the government of the United States had notified to its citizens the duties which its neutrality enjoined, Mr. Genet, the first minister from this Republic, arrived at Philadelphia : altho' his conduct had been such as to give cause for serious alarm, altho' before he was even acknowledged as a minister, or had reached the authority which could inspect his credentials, he had assumed the functions of the government to which he was deputed. Yet that government resolved to see in him, only the representative of a Republic, to which it was sincerely attached, gave him the same warm and cordial reception which he had experienced from its citizens, without a single exception, from Charleston to Philadelphia. The then situation of France deserves to be remembered.

While the recollection adds, citizen minister, to the glory with which your nation is encircled, it establishes the sincerity of the United States.

The most formidable combination, the world had ever seen, threatened the extermination of this Republic. Austria, Germany, Prussia, Britain, Spain, Holland and Sardinia ; were in arms against France and Russia was leagued in the coalition. Nor was this all. The Republic, distracted by internal divisions, contained numerous enemies within its own bosom, and a considerable portion of its proper force was arrayed against itself. In such a state of things, the most sanguine might fear, and the most ardent hesitate. Confident in their strength, and relying on success, the coalesced powers

sought to arm in their cause, the residue of the world, and deemed it criminal to acknowledge the sovereignty of the Republic. The nations of Europe, even those who had not entered into the contest, were either themselves unwilling to acknowledge this sovereignty, or were deterred by fear from doing so. Had the partialities of America been against France, this example would have been followed. According to the rules of ordinary calculation, the measure would have been safe, and consequently a government, feeling the attachments now so unjustly attributed to that of the United States, would have indicated those attachments by its adoption. Far from pursuing such a system the United States, unawed by the strength of the coalition, received with open arms the minister of this Republic, acknowledged with enthusiasm the government which had deputed him, overlooked his extraordinary attacks on their sovereignty, and manifested a cordial friendship for his nation and a sincere wish for its success.

Scarcely were the first ceremonies of his reception over, when Mr. Genet displayed a disposition to usurp and exercise within the United States, the choicest and most important duties and powers of sovereignty. He claimed the privileges of arming and embodying the citizens of America within their own territory, to carry on from thence expeditions against nations with whom they were at peace, of fitting out and equipping, within their limits, privateers, to cruize on a commerce destined for their ports; of erecting within their jurisdiction, an independent judiciary, and of arraigning their government at the bar of the people. The undersigned will not ask in what manner France would have treated any foreign minister, who should have dared so to conduct himself towards this republic? But in what manner would the American government have treated such a minister, if the representative of a nation it viewed with coldness, or even indifference? In what manner would it have treated him, had he been the representative of any other nation than France? No man acquainted with that government can doubt how these enquiries ought to be answered. From the minister of France alone could this extraordinary conduct be borne with temper. To have continued to bear it, without perceiving and feeling its extreme impropriety, would have been to have merited the contempt as well of France as of the other powers of the earth. The government of the United States did feel it; but far from transferring to his nation that resentment, which such conduct could not fail to excite, it distinguished strongly between the government and its minister, and the representations it made were in the language of a friend afflicted, but not irritated, by the injuries it complained of. The recall of that minister was received with universal joy, as a confirmation that his whole system of conduct was attributable only to himself; and not even the publication of his private instructions could persuade the American government to ascribe any part of it to this Republic.

At the same time the exertions of the United States to pay up the arrearages of their debt to France, which had been unavoidably permitted to accumulate, their disinterested and liberal advances to the sufferers of St. Domingo, thrown suddenly upon them, without provisions or money, whose recommendation was, that they were Frenchmen and unfortunate; the perseverance with which they apologized for and ascribed any occasional injuries they sustained to the force of circumstances; the interest which they continued openly to take in all the fortunes of this Republic, manifested partialities of a very different sort from those which have been so unjustly attributed to them.

At this period too, a great principle was brought into discussion, the dispassionate consideration of which is essential to the fair estimate of the charges made by France against the government of the United States. The property of French citizens was taken by British cruizers and ships of war, out of American bottoms, and the American government submitted to

the practice. The propriety of submitting to it, depends entirely on the naked right of the captors, under the existing circumstances of the case, to exercise such a power. The circumstances were these: In the treaty of commerce made between France and the United States in February 1778, it was stipulated in substance, that neither party should take out of the vessels of the other, the goods of its enemy, but the character of the bottom should be imparted to its cargo. With England the United States had made no stipulation on the subject.

It follows then that the rights of England, being neither diminished or increased by compact, remained precisely in their natural state, and were to be ascertained by some pre-existing acknowledged principle.

This principle is to be searched for in the law of nations. That law forms, independent of compact, a rule of action by which the sovereignties of the civilized world consent to be governed. It prescribes what one nation may do without giving just cause of war, and what, of consequence, another may and ought to permit, without being considered as having sacrificed its honor, its dignity or its independence.

What then is the doctrine of the law of nations on this subject? Do neutral bottoms, of right and independent of particular compact, protect hostile goods? The question is to be considered on its mere right, uninfluenced by the wishes or the interests of a neutral or belligerent power.

It is a general rule, that war gives to a belligerent power a right to seize and confiscate the goods of his enemy. However humanity may deplore the application of this principle, there is perhaps no one to which man has more universally assented, or to which jurists have more uniformly agreed. Its theory and its practice have unhappily been maintained in all ages. This right then may be exercised on the goods of an enemy wherever found, unless opposed by some superior right. It yields by common consent to the superior right of a neutral nation to protect, by virtue of its sovereignty, the goods of either of the belligerent powers, found within its jurisdiction. But can this right of protection, admitted to be possessed by every government within its own limits, in virtue of its absolute sovereignty, be communicated to a vessel navigating the high seas?

It is supposed that it cannot be so communicated; because the ocean being common to all nations, no absolute sovereignty can be acquired in it: the rights of all are equal, and must necessarily check, limit and restrain each other. The superior right therefore of absolute sovereignty, to protect all property within its own territory, ceases to be superior, when the property is no longer within its own territory, and may be encountered by the opposing acknowledged right of a belligerent power, to seize and confiscate the goods of his enemy. If the belligerent permits the neutral to attempt without hazard to himself, thus to serve and aid his enemy, yet he does not relinquish the right of defeating that attempt whenever it shall be in his power to defeat it. Thus it is admitted that an armed vessel may stop and search at sea a neutral bottom, and may take out goods, which are contraband of war, without giving cause of offence, or being supposed in any degree to infringe neutral rights. But this practice could not be permitted within the rivers, harbours or other places of a neutral, where its sovereignty was complete. It follows then that the full right of affording protection to all property whatever, within its own territory, which is inherent in every government, is not transferred to a vessel navigating the high seas. The right of a belligerent over the goods of his enemy within his reach, is as complete, as his right over contraband of war; and it seems a position not easily to be refuted, that a situation that will not protect the one, will not protect the other. A neutral bottom then does not of right, in cases where no compact exists, protect from his enemy the goods of a belligerent power.

To this reasoning, the practice of nations has conformed, and the common understanding of mankind seems to have assented. Vattel, B. 3. Sect.

115, says positively, "that effects belonging to an enemy, found on board a neutral ship are seizable by the rights of war."

Vattel is believed to be supported by the most approved writers on the same subject. It is deemed unnecessary to multiply citations to this point; because France herself is supposed to have decided it. In her maritime ordonnance of the year 1744, which is considered as having been in force in 1778, enemy goods in neutral bottoms, generally, are declared liable to seizure and confiscation. From the operation of this rule are excepted the vessels of Denmark, and the United Provinces, to whom special treaties secured the exception. In the ordonnance too of the 26th July, 1778, the first article of which is considered as forbidding the cruizers of France to stop and bring into port neutral vessels, having on board the goods of an enemy, a power is reserved to revoke the privilege granted to neutrals by that article, if the enemy should not grant the same privilege within six months from the publication of that regulation. This clearly indicates a conviction, that the exemption from the capture of the goods of an enemy, which should be found on board the vessel of a neutral power, not having stipulated such exemption by treaty, was a privilege granted by the ordonnance, and that the mere revocation of the ordonnance would abolish the privilege, and restore the ancient rule. It will not be contended that France has continued in a long course of practice and of legislation opposed to her own opinion of the law of nations. It must then be considered as the opinion of France, that under that law neutral bottoms afford no protection to the goods of an enemy. This principle, thus admitted to have been established, is supposed by some to have been changed by the armed neutrality. A new law of nations, it is contended, was introduced, by that confederation. But who were the parties to that federation, and what was its object? The northern maritime powers of Europe united to protect by force, in their own bottoms, during the then existing war, the goods of either and of all the belligerent powers. The compact in its own nature was confined with respect to its objects and its duration. It did not purport to change nor could it change permanently and universally the rights of nations not becoming parties to it. It did indeed hold forth the promise of future more permanent and more general engagements for the same object, but such engagements were never formed. How then can this temporary and partial convention be considered as altering, radically and generally, principles which have been universally adopted, and in the modification of which all have an interest? Would France herself admit that a combination, such as that which constituted the armed neutrality, may rightfully change the law of nations, and establish a new code of universal obligation? It is believed that no nation on earth would more perseveringly oppose such an invasion of its sovereignty.

There seems then to be no solid ground for maintaining, that the general law of nations has been at all varied by the armed neutrality.

It remains to enquire whether the treaties, between France and the United States, pledge either nation to assert and establish the principle, that free bottoms make free goods.

The treaty of amity and commerce, concluded the 6th February 1778, stipulates reciprocally for the right of trading with and protecting the goods of the enemy of either party in the vessels of the other, and in turn surrenders its own goods found in the vessels of an enemy, but it contains no clause imposing on either party the duty of extending the principle, or of supporting its application to other nations. The stipulations of that treaty are negative as well as affirmative. They specify as well the disabilities intended to be created and the duties to be imposed, as the privileges designed to be granted. Had it been intended that either nation should have been bound to maintain this principle in its intercourse with others, or should have been in any degree incapacitated from prosecuting freely that

intercourse, without the previous admission of the principle, a stipulation to that effect would have been made. No such stipulation having been made, the parties cannot be presumed to have intended it. Indeed it would have been madness in the United States, under their actual circumstances, to have formed such an agreement. There being no express stipulation to this effect, it cannot be supposed to have been implied. Nations forming a solemn compact which ought to regulate their conduct towards each other which is to be resorted to as the standard for adjusting their differences, do not leave to implication such delicate and important points. Indeed if a great principle not mentioned is permitted to be implied, the object of a written agreement, which is itself to evidence all the obligation it creates, is totally defeated. But who is to make the implication, and to what extent is implication to be allowed? It is very easy to perceive, that the doctrine of implying in contracts stipulations never formed, would destroy all certainty of construction, and open a boundless field of controversy to the contracting parties.

It results from the very nature of a contract which affects the rights of the parties, but not of others, and from the admission of a general rule of action, binding independent of compact, which may be changed by consent, but is only changed so far as that consent is actually given, that a treaty between any two nations must leave to all others those rights which the law of nations acknowledges; and must leave each of the contracting parties subject to the operation of such rights. For the truth of this position, believed to be so clear in itself, and which it is supposed the history of all Europe will illustrate, the ordonnance of 1744, already quoted, is considered as furnishing an unequivocal authority. By that ordonnance the law of nations is applied to all those neutrals with whom France had not stipulated, that the quality of their bottoms should be imparted to their cargoes, while those with whom such stipulations had been made are exempted from the application of the law.

The desire of establishing universally the principle that neutral bottoms shall make neutral goods, is perhaps felt by no nation on earth, more strongly than by the United States. Perhaps no nation is more deeply interested in its establishment. It is an object they keep in view, and which, if not forced by violence to abandon it, they will pursue in such manner as their own judgment may dictate as being best calculated to attain it; but the wish to establish a principle is essentially different from a determination that it is already established. The interests of the United States could not fail to produce the wish: their duty forbid them to indulge it, when deciding on a mere right. However solicitous America might be to pursue all proper means, tending to obtain for this principle the assent of all or any of the maritime powers of Europe, she never conceived the idea of obtaining that consent by force.

The United States will only arm to defend their own rights: neither their policy nor their interests permit them to arm, in order to compel a surrender of the rights of others. These and other considerations, which have been submitted to the government of France, produced on the part of the United States a decision, that their bottoms could not of right protect the goods of a belligerent power from an enemy not bound to respect the principle. This decision was founded on the most perfect conviction, that it was enjoined by the law of nations; and that good faith, respect for truth, and for the duties of an upright and honest judgment, rendered it indispensable. This conviction remains unshaken. If those articles, which still appear conclusive to the American government, have not the same operation on the judgment of France, they must at least be sufficient to evince the sincerity with which that government has acted, and to prove that its conduct, in this respect, was produced by a sense of duty, and not by any partiality for a nation against which it was, at that time, considerably irritated by other causes.

The undersigned, citizen minister, rely too implicitly on your candour and discernment, to apprehend, that you will estimate improperly, the motives which on this essential point have influenced and guided the United States.

The early decision of the American government on this subject was immediately avowed, openly and amply supported by Mr. Jefferson, the then Secretary of State, in his letter to Mr. Genet, dated the 24th July, 1793; and in his letter to Mr. Morris, dated 16th August in the same year. The arguments, which those letters contain, were supposed to have satisfied the government of France, since its ministers in the United States no longer controverted the principle they supported. Indeed those arguments appeared too conclusive to permit a doubt concerning the success which would attend them.

In August 1794, when Mr. Monroe, the then minister of the United States to this Republic, was received into the bosom of the convention, France obviously did not consider the acknowledgement of this established principle of the law of nations, as indicating a partiality towards her enemy. The language used on the occasion could only have been used to the minister of a nation, whose friendship was valued, and whose conduct had evinced the sincerity of its professions. It was then declared "that the sweetest, the frankest fraternity united in effect the two Republics," and that "their union would be forever indissoluble." These declarations, made long after America had avowed its neutrality, and had avowed its acquiescence under the principle, that a belligerent power, unrestrained by particular treaty, may of right take out of the bottoms of a neutral, the goods of its enemy, demonstrate that neither that neutrality nor that acquiescence induced the want of a proper regard for France. The government of the United States still cherishes the hope, that this true and fair estimate, then made of its conduct, may be soon resumed by a nation whose friendship it has assiduously and unremittingly cultivated, by all those means which good faith and justice could permit it to use.

After the discussion of this interesting question was supposed to have been closed, and France was believed to have been entirely content with that system in which the United States found themselves bound to persevere, some complaints were made, not against the principles adopted by the government, but against the application of those principles to particular cases supposed not to come within them. The neutrality of the United States could not permit prize to be made of vessels belonging to nations with whom they were at peace, within their jurisdiction; or by Privateers fitted out in their own ports. Regulations to this effect were necessarily made; and to enforce the observance of those regulations, was a duty not to be dispensed with. The right of one of the belligerent powers, to obtain the release of a vessel captured under such circumstances, was as sacred as the right of the captor to a vessel taken on the high seas and which according to the usages of war was lawful prize. The United States were bound to respect the rights of both. To do so, it was necessary to examine the facts; for which purpose, a Tribunal, in which both parties might be fairly heard, was unavoidable. Some complaints were made of particular vexations, and each complaint has heretofore been particularly attended to. It is believed to be unnecessary to review these several cases, because the undersigned are entirely persuaded that explanations, already given, must have been completely satisfactory. Should any one of them be still considered as furnishing subject for complaint, the undersigned will proceed to its investigation, with the most sincere desire to attain truth, and to redress the wrong, if any has been committed.

During this period, the causes of complaint against France, on the part of the United States, were by no means inconsiderable. Their commerce was not exempt from depredations, believed to be entirely unwarrantable, made upon it by the Cruizers of this Republic.

On the 9th of May, 1793, the National Convention passed a decree relative to the commerce of neutrals, the first article of which is in these words: "The French ships of war and privateers may stop and bring into the ports of the Republic, such neutral vessels as are loaded, in whole or in part, either with provisions belonging to neutrals, and destined for enemy ports, or with merchandize belonging to enemies." In consequence of the remonstrances of the American Minister, the convention, on the 23d May, declared, "that the vessels of the United States are not comprized in the regulations of the decree of the 9th May." On the 28th of the same month, the Convention repealed the decree of the 23d—On the 1st July, they re-established it. On the 27th July, it was again repealed. Under the decree of the 9th May, the vessels of the United States were captured, brought into the ports of France, and their cargoes disposed of. Could this decree, citizen minister, be regarded otherwise than as infringing the laws of nations, the rights of neutrals, and the particular engagements, subsisting between France and the United States?

When on the 8th June, in the same year, the British government issued a similar order, its injustice produced a ferment throughout America, indicating strong dispositions immediately to oppose its execution by force. The letter of Mr. Jefferson, the then Secretary of State, to the Minister Plenipotentiary of the United States at London, dated the 7th Sept. 1793, and remonstrating against the order of the 5th June, contains so much justness of sentiment, and strength of argument, as to have been quoted by your predecessor, in his letter to Mr. Monroe of the 9th March, 1796.

It cannot escape you, citizen minister, that the arguments of Mr. Jefferson, concerning the order of the 8th June, apply conclusively to the decree of the 9th May; and that to them are to be added, those arguments which are to be drawn from the hardship of being absolutely compelled, without any alternative, to part with the cargoes in France, and those also which are drawn from the duties imposed by an express and solemn treaty.

Nothing can demonstrate more conclusively the real temper of the United States, than the difference between the reception given to the decree of the convention of the 9th May, and that which was given to the order of the British cabinet of the 8th June.

A large number of American vessels too were for a long time detained at Bourdeaux, very much to the injury of the owners, without assigning a motive for such detention, or putting it in the power of the government to conjecture the cause of a measure, which so deeply affected the interest of their fellow citizens—These and other embarrassments were experienced, but they could not diminish the attachment of the United States to France. In the midst of them, prayers were offered up, through the whole extent of the American continent, for the success of this Republic. The government, feeling the same sentiment, displayed it, at least as far as was compatible with the decent deportment required from a nation not a party in the war, and professing neutrality. Such would not have been the conduct of a government and people, in secret unfriendly to France.

Very strong and just resentments were at that time inspired by the hostile conduct of Britain. The instructions of June, 1793, whereby

American vessels, laden with provisions for France, were brought into the ports of Britain, there to sell such cargoes, or to give security to sell them in other ports in amity with England, and the still more offensive order of November the 6th, in the same year, whereby vessels laden with the produce of a French colony, or carrying provisions to such colony, were ordered to be brought in for adjudication; added to the pre-existing causes of mutual irritation, had produced such a state of things, as to render it obvious, that the injuries complained of by America must be entirely done away, or that war was the inevitable consequence.

This state of things was not so altered by the order of the 8th of January, 1794, revoking that of the sixth of November, 1793, as to promise a different result. But as a nation preferring peace to war will ever make a peaceful demand of reparation for injuries sustained, before that reparation is sought by the sword, and as the policy of America has ever been, "to pursue peace with unremitting zeal, before the last resource, which has so often been the scourge of nations, and could not fail to check the advanced prosperity of the United States, was contemplated;" an Envoy Extraordinary was deputed to his Britannic Majesty. "Carrying with him a full knowledge of the existing temper and sensibility of his country, it was expected that he would vindicate its rights with firmness, and cultivate peace with sincerity."

Truly desirous, as the American government was, of preserving peace with Britain, its determination was unalterable, not to preserve it, nor to receive compensation for injuries sustained, nor security against their future commission, at the expense of the smallest of its engagements to France. Explicit and positive instructions to this effect were given to Mr. Jay, and those instructions were freely communicated to the Minister of this Republic, then at Philadelphia. The negotiation of the American Envoy terminated in a treaty in many respects desirable to the United States.

But however desirable its objects might be, the government of the United States would not have hesitated to reject them, had they been accompanied with any stipulation violating or weakening its engagements to France. But it has been able to discern no such stipulation. — The twenty-fifth article of that treaty guards the rights of this Republic by the following clause: "Nothing in this treaty contained shall, however, be construed or operate, contrary to former and existing public treaties with other sovereigns or states." The treaty with France being a "former and existing public treaty," and it being thus provided that nothing contained in the treaty with Britain, "should be construed or operate contrary to it," the government of the United States did not apprehend that the treaty with Britain could be considered as affecting its relations to France. But such was its attention to its ally, that the instrument was, previous to its ratification, submitted to the consideration of the Minister of this Republic, who was invited to communicate freely to the government of the United States, such observations upon it as he might judge proper. Mr. Adet, in a letter addressed to Mr. Randolph, dated 12th Messidor, 3d year of the French Republic, (30th June, 1795) expresses his sense of this procedure in the following words: "This frank measure is to me a sure guaranty of the friendship of the American government towards France, and of the fidelity with which it always marks

its conduct towards a faithful ally." He then stated those reflections to which the reading of the treaty had given birth. The articles which relate to enemy goods in neutral bottoms, are mentioned without a comment. He contended, that the list of contraband was swelled, and that the 23d, 24th and 25th articles of the treaty with Britain, ceded to that power advantages inconsistent with the previous cessions to France. This letter was answered by Mr. Randolph, on the 6th of July following, who proves, that no article was enumerated in the list of contraband, in the treaty between the United States and Britain, which was not of that description, previous to its formation, and independent of it; noticed briefly the subject of enemy goods in neutral bottoms; and demonstrated, that the objections of Mr. Adet to the 23d, 24th and 25th articles were entirely founded on a misconstruction of them. This misconstruction was so apparent, that Britain has never claimed it, nor would the American government ever have admitted it. The letter of Mr. Randolph closes the subject of enemy contraband and of enemy property taken out of neutral bottoms, with a paragraph, to which, Citizen Minister, your attention is solicited: "Hitherto, however, (says he) I have spoken upon principles of right. Upon any other principles, and more especially upon those of hardship and injury to a friend, it shall be a topic of the negotiation now opening between us. With the temper which will pervade the whole of it, I cannot doubt, that some modification may be devised, and it may be separated from the general treaty, so as not to be delayed by it."

It was then apparent, that the government of the United States, actuated by that friendship which transcends the line of strict obligation, was willing, gratuitously, to release her ally from those stipulations of a former treaty, which, in the course of events, were deemed to operate unfavourably to her. This readiness to concede, marked that friendship the more strongly, as the situations in which the two nations found themselves could not have been unforeseen, but was the very situation for which the article provides. The answer of Mr. Randolph concludes, with requesting an opportunity to remove any remaining doubts, should there be such, by further explanations: no remaining doubts were stated, and therefore, as well as for its contents, the letter was believed to be entirely satisfactory to Mr. Adet, and it was hoped, that this government, as well as that of America, would consider the treaty with Britain as an accommodation desirable by the United States, and not disadvantageous to France.

It is not easy to express the chagrin felt by the American government on learning, that in this treaty the United States were supposed to have "knowingly and evidently sacrificed their connections with this Republic, and the most essential and least contested prerogatives of neutrality." With the firmness of conscious integrity, the United States aver, that they have never knowingly sacrificed or impaired their connections with this Republic, nor the prerogatives of neutrality; but that they have, according to their best judgment, invariably sought to preserve both.

The undersigned will endeavour faithfully to state the impressions of the government they represent on this interesting subject. The objections made to this treaty by your predecessor in office, in his note to Mr. Monroe, dated 19th of Ventose, 4th year of the French Republic, on and indivisible (9th March, 1796) are,

1st. That the United States, besides having departed from the principles established by the armed neutrality, have given to England, to the detriment of their first allies, the most striking mark of an unbounded condescension, by abandoning the limits given to contraband by the law of nations, by their treaties with all other nations, and even by those of England with the greater part of the maritime powers.

2d. That they have consented to extend the denomination of contraband even to provisions. Instead of pointing out particularly, as all treaties do, the cases of the effective blockade of a place, as alone forming an exception to the freedom of this article, they have tacitly acknowledged the pretensions raised by England, to create blockades in the colonies, and even in France, by the force of a bare proclamation.

Mr. Adet, in his letter to Mr. Pickering, dated 25th Brumaire, 5th year of the French Republic, one and indivisible, (15th Nov. 1796,) has repeated the same objections, and has been pleased also to superadd some observations relative to the formation of such a treaty generally, and the circumstances attending its negotiation, in terms not to have been expected by the first, and almost only voluntary friend of this Republic.

These having been the only specific objections officially made to the treaty with Britain, by the government of France, either in Paris or in Philadelphia, are necessarily supposed to be the only objections which have occurred.

They have often been discussed on the part of the United States, but that discussion will be renewed, because, although the undersigned may be unable to suggest any argument not heretofore urged, they cannot resist the hope, that an attentive reconsideration of those arguments may give them a success which has not yet attended them.

The first objection may be supposed to consist of two parts. 1st. The abandonment of the principle, that neutral bottoms make neutral goods; an objection rather insinuated than expressed; and 2dly, the addition to the catalogue of contraband.

1st. On the first part of the objection, it is observable, that the statements of the late Minister of Exterior Relations, and of Mr. Adet, seem to admit, but certainly do not controvert the position, that previous to the formation of the armed neutrality, a belligerent power could rightfully take out of the bottoms of a neutral the goods of its enemy. This position is believed to be uncontrovertible; some of the arguments in support of it have been already detailed, and it is deemed unnecessary to repeat or to add to them. To this principle of the armed neutrality, with a departure from which, the United States seem to be impliedly charged, the note of Mr. de la Croix does not assign any obligation whatever; nor does he appear to consider it as having been engrafted by that confederation on the law of nations. On this point Mr. Adet has not been more explicit. He seems to have been content with vague insinuations, and not to have been willing to commit himself by a direct avowal, that in consequence of the armed neutrality, the law of nations on this subject is changed. The undersigned are unwilling to combat at length; a proposition not positively advanced, which they deem so clearly indefensible, and will therefore refer to the brief observation already made respecting it.

It may not, however, be improper here to notice, that in February,

1778, when the treaty between France and the United States was entered into, the armed neutrality had not been formed; of consequence, the state of things on which that treaty operated, was regulated by the law of nations, as it clearly existed previous to the formation of the armed neutrality. It is supposed to be admitted, that according to that state of things, neutral bottoms could afford no protection to the goods of an enemy. The stipulation then of the article of that treaty, was understood at the time, by the contracting parties, to form an exception to a general rule, which would retain its obligation in all cases where it was not changed. If then the contracting parties had designed to impose on each other the necessity of extending this exception to other nations, so as to convert it into a general rule, they would have expressed this intention in their contract: not having expressed it, they must be considered as intending, that this exception should form a rule as between themselves, while the general rule should govern as with other nations who had not consented to change it.

It is also worthy of observation, that when this treaty was made, the United States were at war, and France at peace with Britain. In this state of things, which might have continued, had not war been declared, or hostilities commenced by England, the bottoms of France would have protected, from American cruisers, English property, while they would not have protected from British cruisers American property. This was the necessary result of that state of things under which the treaty was formed; America had consented to it; and neither could or would have complained.

It is also to be noticed, that before the negociation with England had commenced, the government of the United States had openly avowed that opinion on this subject, which its best judgment dictated. This opinion, perfectly unconnected with that negociation, was known by all to form and regulate the basis of its conduct. The letters from Mr. Jefferson, already quoted, had stated to the world the perfect conviction of the United States, that by the law of nations, a belligerent power, not restrained by particular treaty, might rightfully take out of the bottoms of a neutral the goods of its enemy; as well as their determination, that they could not and ought not to oppose the exercise of this right. The right having been clearly and unavoidably admitted, and the determination to acquiesce under its exercise having been avowed openly, Mr. Jay could only solicit its surrender. Had no treaty been formed, or had that treaty omitted to mention the principle, the right would still have existed, would still have been acknowledged, and would still have been exercised. The treaty does not, in fact or in expression, cede a new privilege; it regulates the exercise of one before existing, and before acknowledged to exist. The harsh means of exercising this right, which are given by the law of nations, are modified and softened by the treaty, and this is the only effect which the article on this subject has produced; it was the only motive, and it was a sufficient motive for introducing it.

The second branch of this objection seems more to be relied on, and comes forward in a more decisive shape; it is—That the United States have abandoned the limit given to contraband by the law of nations, by their treaties with all other nations, and even by those of England with a greater part of the maritime powers.

The limit of contraband is supposed to have been extended, by inserting in the catalogue, naval stores, and timber for ship-building.

To estimate rightly a charge so warmly made, it becomes indispensible to ascertain whether these articles are, independent of treaty, by the law of nations contraband of war: on this single point seems to rest the verity of the accusation.

It is regretted that those, who have averred the negative, have not been pleased to furnish authorities in support of the opinion they advance. Such authorities would have been considered with candour, and any conviction they might have produced would have been freely acknowledged. But no such authorities are furnished, and it is believed that none exist.

America solicitous to confine as much as possible, by common consent, the list of contraband; but determined, however she might oppose its enlargement, not to attempt its diminution by force, was under the necessity of examining the subject, and of ascertaining the line of partition between the rights of neutrals and of belligerent powers.

As guides in such a search, she could only take the most approved writers on the law of nations. These are believed to class timber for ship-building, and naval stores for the equipment of vessels, among articles admitted to be contraband of war. Vattel (B. III. c. 7. sect. 112.) defines contraband goods to be "commodities particularly used in war: such are arms, military and *naval stores*, *timber**, horses, and even provisions in certain junctures, where there are hopes of reducing the enemy by famine." The treaty between France and Denmark, concluded in 1742, places tar, rosin, sails, hemp, cordage, masts, and timber for ship-building, on the catalogue of contraband: and Valin, in his commentary on the marine ordinances of France, (Vol. 2. page 264.) says that "of right these articles are now contraband, and have been so from the commencement of the present century." In conformity with these opinions has been that of America; and if the law of nations was understood by the most approved jurists, she has not erred.

But the modern public law of nations, and modern treaties, are said to have established a different rule. If the modern public law of nations has changed the principle, such change is yet unknown to the United States. It is much to be wished, that more full and satisfactory information had been given in support of an opinion, a difference on which is alledged to have produced consequences so extremely calamitous.

It is not averred, that the armed neutrality has constituted this modern public law. It is supposed that this cannot be averred, because France will never admit the right of a confederacy, whatever may be its power, to impose the law on those who are not parties to it. It is supposed also, that this cannot be averred for another reason. The members of the armed neutrality had not themselves agreed upon the articles which should be deemed contraband. Russia, the power originating that celebrated, though short lived compact, published in 1780 the principles on which she would maintain the commerce of her subjects: one of these was, that the articles of contraband should be regulated by the 10th and 11th articles of her treaty of commerce with Great Britain.

Afterwards, Denmark entered into a convention with Russia for maintaining generally the principles agreed upon; but on the subject of con-

* [For *ship-building*.]

contraband in particular, Denmark adopted as the rule by which to be governed, her treaty of commerce with Great Britain, concluded the 10th of July, 1670, in the third article of which, contraband goods are described to be "*any provisions of war, as soldiers, arms, machines, cannon, ships, or other things of necessary use in war.*" But by a convention concluded at London, on the 4th of July, 1780, between Great Britain and Denmark, to explain the treaty of commerce of 1670, between the two powers, "*Timber, for ship-building, tar, rosin, copper in sheets, sails, hemp and cordage, and generally whatever serves directly for the equipment of a vessel, unwrought iron and fir planks excepted,*" are declared to be contraband.

Denmark having, in her convention with Russia adopted her treaty with England, made in 1670, as declaratory of those articles which she would consider as contraband, and having by her explanatory agreement with England substituted a particular enumeration of articles for a general description of them, not as an amendment, but as an explanation of the treaty of 1670; has taken a different rule, in the very compact referred to as establishing a modern public law of nations, from that taken by Russia. The rule of Denmark classes among contraband precisely the same articles which are enumerated as such in the treaty between the United States and Britain, and which are only found in that enumeration, because it is believed that the law of nations has unquestionably so placed them. Sweden and Holland too, in acceding to the armed neutrality, adopt their own treaties as the rule by which they will respectively be guided. There was then even among the parties to this agreement no fixed law of contraband. Had the Potentates of Europe designed to establish permanently and generally the principles of the armed neutrality, the war which originated that convention, would not have terminated without some general agreement concerning it: The efforts of Sweden to obtain a congress for examining and terminating the different concerns both of the powers at war and of the neutral states, could not have proved entirely abortive.

No argument then can be drawn from the armed neutrality in support of the position, that the modern public law of nations, relating to contraband, has been abandoned by the United States. No modern public law having been formed, the rule remains unchanged; and, at the present moment, as well as when the treaty with France was formed, is believed to ordain as contraband the articles enumerated as such in the treaty with Britain.

But it is alledged that, in this treaty, the United States have abandoned the limits given to contraband, by their treaties with all other nations, and even, by those of England with a greater part of the maritime powers.

It is true, that the United States, desirous of liberating commerce, have invariably seized every opportunity which presented itself to diminish or remove the shackles imposed on that of neutrals. In pursuance of this policy, they have on no occasion hesitated to reduce the list of contraband, as between themselves and any nation consenting to such reduction. Their pre-existing treaties have been with nations as willing as themselves to change the old rule: and consequently a stipulation to that effect, being desired by both parties, has been made without difficulty. Each contracting party is deemed to have an equivalent for the ces-

tion made, in the similar cession it receives from the party with whom it contracts. Neither requires of the other, as an additional consideration, that it shall propagate by the sword the principles which form the basis of their private agreements, and force unwilling nations to adopt them; nor that it should decline to regulate by treaty its interests with any other nation which should refuse to accede to them: as little could either suppose that its particular contract contained any thing obligatory on others, or was capable of enlarging or diminishing their rights. The treaties of the United States then with other nations can only establish the limits of contraband, as between the contracting parties, and must leave that subject, with nations not parties to the contract, to the law which would have governed had such particular stipulation never been made. According to the existing state of things when the negotiations between the United States and Great Britain were opened, naval stores and timber for ship-building were, as between America and Britain, contraband of war: they would have retained this character had the treaty never been made: they would have retained it had the treaty contained no provision on the subject. The United States were truly desirous of excluding them from the list, but Britain was unwilling to do so. Had the United States possessed the means of coercion, their established policy, founded on the basis of justice, and their own peculiar situation, forbid a resort to these means for any other purpose than the defence of their own rights, or a compliance with their own engagements. It was not a case in which force would have been deemed justifiable; and the object, being unattainable by mutual consent, was unavoidably relinquished for the moment. Yet it was proper to enumerate the articles which were before contraband, and which continued to be so, because that enumeration notified to the merchants of the United States the hazard which their commodities would encounter on the seas, and because also it prevents those vexatious altercations, which might otherwise have been produced by the efforts of one party to swell, and of the other to reduce the list.

If on the refusal of Britain to substitute any other rule concerning contraband, in the place of that established by the law of nations, France finds herself in a situation to be injured by an observance of her engagements with the United States, it is not the treaty with Britain, but that with France which has produced this situation. This was foreseen when that treaty was entered into, and did not prevent it. The stipulation concerning contraband was formed when France was at peace, and America at war; although that state of things did not long continue, yet its continuance was by no means deemed impossible. Notwithstanding this, the government of the United States has manifested a willingness to change this stipulation, as well as that which respects enemies property in neutral bottoms, so soon as France complained of them: of this the letter from Mr. Randolph to Mr. Adet, already quoted, affords conclusive testimony.

It appears then on examining this objection to the treaty between the United States and Britain, that it has not added to the catalogue of contraband a single article; that it has ceded no privilege, has granted no right; and that it has not changed in the most minute circumstance the pre-existing situation of the United States in relation either to France or to Britain. Notwithstanding these truths, the government of the United

States has hastened to assure its former friend that, if the stipulations between them be found oppressive in practice, it is ready to offer up those stipulations a willing sacrifice at the shrine of friendship.

In vain will you search in this procedure for "a known and evident sacrifice on the part of the United States of their connections with this Republic, and of the most essential and least contested prerogatives of neutrality." In vain will you search for evidence of their "having given to England, to the detriment of their first allies, the most striking mark of an unbounded condescension, by abandoning the limits given to contraband by the law of nations, by their treaties with all other nations, and even by those of England with the greater part of the maritime powers."

The United States feel these reproaches, as conscious innocence feels the imputation of guilt.

SECONDLY. It is also alledged, that "the United States have consented to extent the denomination of contraband even to provisions. Instead of pointing out particularly, as all treaties do, the cases of the effective blockade of a place, as alone forming an exception to the freedom of this article, they have tacitly acknowledged the pretensions raised by England to create blockades in our colonies, and even in France, by the force of a bare proclamation."

The objections to this article shall be considered according to its letter, and according to its operation.

The objectionable words are : "and whereas the difficulty of agreeing on the precise cases in which alone provisions and other articles not generally contraband may be regarded as such, renders it expedient to provide against the inconveniences and misunderstandings which might thence arise : It is further agreed that whenever any such article so becoming contraband according to the existing laws of nations, shall for that reason be seized, the same shall not be confiscated ; but the owners thereof shall be speedily and completely indemnified ; and the captors, or, in their default, the government under whose authority they act, shall pay to the masters or owners of such vessels the full value of all such articles, with a reasonable mercantile profit thereon, together with the freight and also the demurrage incident to such detention."

The admissions contained in this clause are,

FIRST, That provisions are not generally contraband, and

SECONDLY, That they are sometimes contraband.

An effort was made to establish the precise cases in which alone they should be subject to seizure ; but America would only consent to consider them as contraband in the case of an effective blockade, siege, or investment of a place ; while on the part of England this strict interpretation of the rule was not admitted : but it was contended that provisions became contraband, when there were reasonable hopes of reducing the enemy by famine. In this opposition of sentiment, to what have the United States consented ? "To extend the denomination of contraband even to provisions ?" "To acknowledge tacitly the pretensions raised by England to create blockades in your colonies, and even in France, by the force of a bare proclamation ?" "To secure to the English alone the carriage of meals ?" "In a word, to have commerce only with England ?" Reconsider the words themselves, and it will require no comment to prove how inapplicable to them are these assertions. The clause complained of, having stated the admission and the difficulty already mentioned, proceeds to say : "It is further agreed that whenever any such articles, so becoming contraband according to the laws of nations, shall for that reason be seized, the same shall not be confiscated, but the owners thereof shall be speedily and completely indemnified."

It is too clear to admit of contestation, that this clause does not declare provisions to be contraband, or admit of their seizure in any other

case than where, "according to the existing law of nations, they should become contraband:" in such case the right to seize them is not given by this article, but is admitted by France and by all the world to exist independent of treaty. In such case they would have been seized had this stipulation never been entered into; and would have been confiscated also. The only alteration, which is by the letter of the clause produced in the law of nations, is to exempt from confiscation goods which under that law would have been subject to it.

But it has been suspected to have an object and an operation in practice different from its letter. It has been suspected to cover a design to admit substantially certain principles, with respect to blockades, which in theory are denied.

Incapable of duplicity, America with the pride of conscious integrity, repels this insinuation, and courts an investigation of the facts on which it is founded.

The government of the United States and that of Britain, having construed the law of nations differently in this respect, each would have acted upon its own opinion of that law: the privateers of England would have seized as contraband any goods, deemed such in their courts of admiralty; and the government of the United States would have reclaimed such goods, and would have supported the demand in such a manner as its own judgment dictated. This procedure is not changed. The right to make such reclamation has not been relinquished, nor has the legality of the seizure, in any other case than that of an attempt to enter a place actually invested, been in any degree admitted.

It is true, that the British government renewed the order concerning provisions about the time of the ratification of this treaty: but it is not less true, that the government of the United States manifested a firm resolution to submit to no such construction, and remonstrated so seriously against it as to produce a revocation of the order. Nor is this all: claims for provisions seized in cases of a mere proclamation-blockade have been actually made, and have been actually decided in favour of the claimants. The British government has acquiesced under such decisions by paying the sums awarded. These sums were not limited to a reasonable profit on the price of the commodity seized, but were regulated by its price at the port of destination, and consequently the actual as well as avowed principle of such decisions was, that the goods seized had not become contraband "according to the existing law of nations."

The intention of the government then, and the practice under the article, are in direct opposition to these injurious suspicions, the indulgence of which has produced such pernicious effects. It is even believed that the decision on this subject, will be one step towards the establishment of that principle for which America has never ceased to contend. It is also believed, and has ever been believed, that the article objected to would have a necessary tendency to increase, and did in fact increase the quantity of provisions imported from America into France and her colonies. The American commerce, being entirely in the hands of individuals, is consequently conducted by them according to their own views of particular advantage: they will unquestionably endeavour to supply the highest market, unless restrained from doing so by other considerations which render it unadvisable to attempt such a supply. In their calculations, the risk of reaching the market is too important an item to be passed over or

forgotten. Every diminution of this risk adds to the number of those who will attempt the supply : and consequently a knowledge that the voyage, should it even fail by the seizure of the vessel, would yet be profitable, must increase the number of those who would make it.

It is plain then, that this article admits the seizure of provisions in no situation where they were not before seizable; and encourages their transportation to France and her colonies, by diminishing the risk of such transportation.

It is also complained of, that this treaty has not, "as all treaties do, pointed out particularly the cases of the effective blockade of a place," as alone forming an exception to the freedom of provisions.

Articles in a treaty can only be inserted by consent. The United States therefore can never be responsible for not having inserted an article to which the other contracting party would not assent. They may refuse to make any change in the existing state of things prejudicial to themselves or to other powers; and they have refused to make any such change. But it is not in their power to insert, as by common consent, an article, though merely declaratory of a principle which they considered as certainly existing, and which they mean to support, if such common consent be unattainable. All that can be done, in such a case, is to leave the principle unimpaired, reserving entirely the right to assert it. This has been done; the principle was left unimpaired, and has been since successfully asserted.

The United States are at all times truly solicitous to diminish as much as possible the list of contraband. It is their interest, in common with all other nations whose policy is peace, to enlarge, so far as they can be enlarged, the rights of neutrals. This interest is a sure guarantee for their using those means which they think calculated to effect the object, and which a just regard to their situation will permit. But they must be allowed to pursue the object in such a manner as may comport with that situation. While they surrender no actual right, in preserving which there is a common interest; while they violate no pre-existing engagement (and these they have not surrendered or violated) they must judge exclusively for themselves how far they will or ought to go in their efforts to acquire new rights, or establish new principles. When they surrender this privilege, they cease to be independent, and they will no longer deserve to be free. They will have surrendered into other hands the most sacred of deposits—the right of self-government; and instead of the approbation, they will merit the contempt of the world.

Those parts of the treaty between the United States and Britain, which have been selected by France as injurious to her, have now been examined. The undersigned are too well convinced that they in no degree justify the enmity they are alleged to have produced, not to rely on a candid reconsideration of them as a sure mean of removing the impressions they are supposed to have made.

Before this subject is entirely closed, one other objection will be noticed. The very formation of a commercial treaty with England seems to be reprobated as furnishing just cause of offence to France; and Mr. Adet has permitted himself to say: "It was a little matter only to allow the English to avail themselves of the advantages of our treaty: it was necessary to assure these to them by the aid of a contract, which

might serve at once as a reply to the claims of France, and as peremptory motives for refusals; the true cause of which it was requisite incessantly to disguise to her under specious pretexts. Such was the object of Mr. Jay's mission to London; such was the object of a negotiation enveloped from its origin in the shadow of mystery, and covered with the veil of dissimulation."

Passing over this extraordinary language, the undersigned, being only desirous of producing accommodation by the exhibition of truth, will consider the opinion which is obliquely hinted, and the fact which is directly averred.

The practice of forming commercial treaties is so universal among other nations, having any commercial intercourse with each other, that it seems unnecessary to discuss their utility. The right to form these treaties has been so universally asserted and admitted, that it seems to be the inseparable attribute of sovereignty, to be questioned only by those who question the right of a nation to govern itself, and to be ceded only by those who are prepared to cede their independence.

But the prosperity of the United States is, in a peculiar degree, promoted by external commerce. A people almost exclusively agricultural have not within themselves a market for the surplus produce of their labour, or a sufficient number and variety of articles of exchange to supply the wants of the cultivator: they cannot have an internal, which will compensate for the loss of an external commerce: they must search abroad for manufactures, and for many other articles which contribute to the comfort and convenience of life, and they must search abroad also for a market for that large portion of the productions of their soil, which cannot be consumed at home. The policy of a nation thus circumstanced, must ever be to encourage external commerce, and to open to itself every possible market for the disposition of its superfluities, and the supply of its wants. The commercial and manufacturing character and capacities of England must turn into that channel a considerable portion of the commerce of any nation under the circumstances of the United States. It is a market too important and too valuable to be voluntarily closed; in consequence, a considerable portion of their commerce has taken that direction, and a continual solicitude has been manifested to regulate and secure it by contract. To abolish this commerce, or to refuse to give it permanence and security by fair and equal stipulations would be a sacrifice which no nation ought to require, and which no nation ought to make. In forming her treaty of amity and commerce with the United States, France claimed no such prerogative. That treaty declares the intention of the parties to be, "to fix in an equitable and permanent manner the rules which ought to be followed relative to the correspondence and commerce, which the two parties desire to establish between their respective countries, states, and subjects;" and that "they have judged that the said end could not be better obtained than by taking for the basis of their agreement the most perfect equality and reciprocity; and by carefully avoiding all those burthensome preferences, which are usually sources of debate, embarrassment and discontent; by leaving also each party at liberty to make respecting commerce and navigation, those interior regulations which it shall find most convenient to itself; and by founding the advantage of commerce solely upon reciprocal utility, and the just rules of free inter-

course; reserving withal to each party the liberty of admitting at its pleasure other nations to a participation of the same advantages." The treaty itself contains no stipulation in any degree contradictory to these declarations of the preamble, or which could suggest a suspicion that under those declarations was concealed a wish to abridge the sovereignty of the United States with respect to treaties, or to controul their interests in regard to commerce. In forming a commercial treaty with Britain, therefore, in which no peculiar privilege is granted, the government of the United States believed itself to be transacting a business exclusively its own, which could give umbrage to none, and with which no other nation on earth would consider itself as having a right to interfere. There existed consequently no motive for concealing from or declaring to France, or any other power, that the negotiations of Mr. Jay might or might not terminate in a commercial treaty. The declaration therefore was not made; nor is it usual for nations about to enter into negotiations, to proclaim to others the various objects to which those negotiations may possibly be directed. Such is not, nor has it ever been the practice of France. To suppose a necessity or a duty on the part of one government thus to proclaim all its views, or to consult another with respect to its arrangements of its own affairs, is to imply a dependence, to which no government ought willingly to submit. So far as the interests of France might be involved in the negotiation, the instructions given to the negotiator were promptly communicated. The minister of this republic was informed officially that Mr. Jay was instructed not to weaken the engagements of the United States to France. Further information was neither to have been required or expected; indeed, that which was given furnished reason to suppose, that one of the objects of the negotiation with Great-Britain was a commercial treaty. Why then such unnecessary and unmerited sarcasms against a cautious and unoffending ally? Those objects which she pursued were such as an independent nation might legitimately pursue, and such as America never had dissembled, and never deemed it necessary to dissemble her wish to obtain. Why should an effort be made to impress France with an opinion, that Mr. Jay was not authorized to negotiate a commercial treaty with Britain, when the fixed opinion of America had ever been, that France could not be and ought not to be dissatisfied with the formation of such a treaty? Why should the minister of France have been informed officially, that Mr. Jay was especially instructed not to weaken the engagements of the United States to France, if it was intended to convince that minister, that his power did not extend to subjects in any degree connected with those engagements? To what purpose should the government of the United States have practised a deception deemed by itself totally unnecessary, and which its utmost efforts could not long continue? It requires an equal degree of folly and vice to practice an useless fraud which must inevitably and immediately be detected, and the detection of which must expose its author to general infamy, as well as to the enmity of those on whom the fraud had been practised. These considerations ought to have produced some hesitation concerning the fact. The testimony in support of it ought to have been very positive and very unexceptionable before it received implicit faith. It should have been very clear that there was no mistake, no misunderstanding concerning the information communicated, before the charge was made

in such terms as the minister of France has been pleased to employ : but the testimony is believed to be satisfactory, that the government of the United States has not endeavoured to impress on France any opinion on this subject, which the fact of the case did not warrant. The declaration of Mr. Randolph, made July 8th, 1795, is full to this point. It is in these words : " I never could with truth have informed the French minister, that the mission, as set forth in the President's message to the Senate, contemplated only an adjustment of our complaints ; it by this phrase it be intended to exclude commercial arrangements. I could have no reason for saying so, since the French Republic could have had nothing to do with our commercial arrangements, if they did not derogate from her rights : it could have answered no purpose when so short a time would develop the contrary—I never did inform the French minister as is above stated.

" The only official conversation, which I recollect with Mr. Fauchet upon this subject, was when I communicated to him, with the President's permission, that Mr. Jay was instructed not to weaken our engagements to France : neither then nor at any other time in official, or unofficial conversation, did I ever say to him that nothing of a commercial nature was contemplated, or that nothing but the controversies under the old treaty and the spoliations were contemplated.

" Mr. Fauchet sometime ago said to me, that he understood from what I said, that Mr. Jay was not authorized to treat of commercial matters. I told him that he misunderstood me, no letter has ever passed upon this subject."

If then, Mr. Randolph did give Mr. Fauchet the information contended for, it is plain that he never was authorized to do so ; but the considerations already detailed render it infinitely more probable, that Mr. Fauchet has misunderstood Mr. Randolph, than that Mr. Randolph has misinformed Mr. Fauchet.

The undersigned have taken, they trust, a correct view of the leading and influential measures adopted by the government of the United States : they have endeavoured to state with plainness and with candour the motives which have occasioned the adoption of those measures, and the operation they are believed to have. They have shewn, that if America is to be reproached with partialities, irreconcilable with her neutral situation, it is not by France that those reproaches ought to be made. They have been induced to take this review by a hope, which they cannot relinquish without regret, that it may contribute to efface impressions which misrepresentation may have made, and to take from the intentions and conduct of the government they represent, that false colouring which unfriendly pencils have so profusely bestowed upon them. They are anxious still to cherish the hope, that by exposing frankly and sincerely the sentiments which have hitherto guided their nation, they may restore dispositions on the part of France, compatible with the continuance of those sentiments.

Complaints have been made that in the application in particular cases of those general principles, which the neutral station of the United States rendered indispensable, inconveniences and vexations which were unavoidable have been sometimes sustained. These complaints have been separately and fully discussed.

The undersigned persuade themselves, that the explanations which have been given respecting them, if not entirely satisfactory, have yet been such as to prove the good faith and upright intention which have never ceased to direct the conduct of the United States.

If notwithstanding this good faith and the purity of these intentions, the difficulty of their situation has in any case produced even an involuntary departure from those principles by which they professed to be guided, they are ready to consider that case and to repair any fault which may inadvertently have been committed. With these dispositions on their part, with this consciousness of having never ceased to merit the friendship and esteem of the French nation, with a conviction that a temperate and thorough view of the past cannot fail to remove prejudices not warranted facts, the United States have relied confidently on the justice of France for a discontinuance and reparation of those serious and heavy injuries, which have been accumulated on them.

Desirous of establishing, not the dependence of a weak on a powerful nation, but that real and cordial friendship, the willing and spontaneous offering of generous minds, which can only be lasting when evidenced to be mutual, and can only be preserved when bottomed on reciprocal justice, the undersigned will now represent with candour and frankness the well founded complaints with which they are charged.

These complaints consist :—

Of claims uncontroverted by the Government of France, but which remain unsatisfied, and

Of claims founded on captures and confiscations, the illegality of which has not yet been admitted.

In the first class of cases are arranged ;

Firstly, Those whose property has been seized under the decree of the national convention of the 9th May 1793.

Secondly. Those who are entitled to compensation in consequence of the long detention of their vessels at Bourdeaux in the years 1793 and 1794.

Thirdly. The holders of bills and other evidences of debts due drawn by the Colonial Administrations in the West-Indies.

Fourthly. Those whose cargoes have been appropriated to public use without receiving therefor adequate payment ; and

Fifthly. Those who have supplied the government under contracts with its agents, which have not yet been complied with on the part of France.

These well founded claims of American citizens, thus originating in voluntary and important supplies, in the forcible seizure of valuable property, accompanied with promises of payment, and in injurious detentions, constitute a mass of debt which the justice and good faith of the French Government cannot refuse to provide for, and which is too considerable to be unnoticed by that of the United States. The undersigned are instructed to solicit your attention to this subject, and they would persuade themselves that they do not solicit in vain. So many circumstances concur to give force to the application, that they leave it to your government, in the confidence that no additional representations can be necessary.

They pass to complaints still more important for their amount, more interesting in their nature, and more serious in their consequences.

On the 14th Messidor, 4th year of the French Republic, one and indivisible (July 2d 1796) the Executive Directory decreed, "That all neutral or allied powers shall without delay be notified that the flag of the French Republic will treat neutral vessels, either as to confiscation, as to searches or capture, in the same manner as they shall suffer the English to treat them." This decree, in any point of view in which it can be considered, could not fail to excite in the United States the most serious attention. It dispenses at once as they conceive with the most solemn obligations which compact can create, and consequently asserts a right on the part of France, to recede at her discretion from any stipulations she may have entered into. It has been demonstrated that governments may by contract change, as between themselves, the rules established by the law of nations, and that such contract becomes completely obligatory on the parties, though it can in no manner affect the rights of others; yet by this decree, allies with whom such stipulations exist, are to be treated without regard to such stipulations, in the same manner as they are treated by others, who are bound by a different rule. This as it respects the United States is the more unfriendly, because a readiness has been manifested on their part so to modify by consent their treaty with France, as to reinstate the rules established by the law of nations.

The general terms too, in which this decree is conceived, threatened but too certainly the mischiefs it has generated, and the abuses which have been practised under it. Neutrals are to be treated as they shall permit the English to treat them. No rule extracted from the practice of England is laid down, which might govern the cruisers of France, or instruct the vessels of neutrals. No principles are stated, manifesting the opinion entertained of the treatment received from England, which might enable a neutral to controvert that opinion, and to shew that the English were not permitted to treat its flag as was supposed by the government of France. To judge from the decree itself, from any information given concerning it, or from the practice under it, those who were to be benefited by its abuse, were to decide in what manner it should be executed; and the cruiser who should fall in with a valuable vessel had only to consult his own rapacity, in order to determine whether an English privateer, meeting a vessel, under similar circumstances, would capture and bring her into port. Multiplied excesses, and accumulated vexations could not but have been apprehended from such a decree, and the fact has realized every fear that was entertained concerning it. It has been construed even in Europe to authorize the capture and condemnation of American vessels, for the single circumstance of their being destined for a British port. At no period of the war has Britain undertaken to exercise such a power. At no period of the war has she asserted such a right. It is a power which prostrates every principle of national sovereignty and to which no nation can submit without relinquishing at the same time its best interests and sacrificing its dearest rights. This power has been exercised by France on the rich and unprotected commerce of an ally, on the presumption that that ally was sustaining the same injuries from Britain, at a time when it is believed that the depredations of that nation had ceased, and the principle of compensating for them had been recognized.

In the West-Indies similar depredations have been experienced. On the 1st of August 1796, the special agents of the Executive Directory

to the Windward Islands, decreed, that all vessels loaded with contraband, should be seized and confiscated for the benefit of the captors.

On the 7th Frimare, 5th year of the French Republic, one and indivisible (27th November, 1796) the commission, delegated by the French Republic to the Leeward Islands, resolved, that the captains of French national vessels and privateers are authorized to stop and bring into the ports of the colony, American vessels bound to English ports, or coming from the said ports.

On the nineteenth Pluviose, 5th year of the French Republic, one and indivisible, (February 1st, 1797) Victor Hugues and Lebas, the special agents of the Executive Directory to the Windward Islands, passed a decree, subjecting to capture and confiscation neutral vessels destined for the Windward and Leeward Islands of America, delivered up to the English, and occupied and defended by the Emigrants. These ports are said to be, Martinico, St. Lucie, Tobago, Demerara, Berbice, Essequibo, Port-au-Prince, St. Marks, L'Archaye, and Jeremie. The decree also subjects to capture all vessels which have cleared out for the West-Indies generally.

The undersigned will not detain you, Citizen Minister, for the purpose of proving how directly and openly these decrees violate both the law of nations, and the treaty between France and the United States.

They have been executed on the officers and crews of the captured vessels, in a manner by no means calculated to mitigate their rigor.

The decree of the fourteenth of Messidor, was soon followed by another which has spared but little of the American commerce, except what has fortunately escaped the pursuit of the cruisers of France. On the twelfth Ventose, 5th year, (2d March, 1797) the Executive Directory, considering the treaty of amity, commerce and navigation, concluded at London, the 19th of November, 1794, between the said United States and England, as containing concessions of privileges to Britain which, under the treaty of February, 1778, might be enjoyed by this Republic also, proceeds to modify the treaty between France and the United States, by declaring enemies goods, in American bottoms, liable to capture and confiscation; by enlarging the list of contraband; and by subjecting to punishment, as a pirate, any American citizen holding a commission given by the enemies of France, as well as every seaman of that nation, making a part of the crew of enemies ships. The decree next proceeds to exact from Americans, papers which had been made necessary to establish the neutrality of foreign vessels, generally, by the ordinance of the 26th of July, 1778, but which had never been considered as applying to the United States, which required papers their vessels could not be supposed to possess, and which the treaty between the two nations was supposed to have rendered unnecessary.

The basis taken by the Executive Directory, on which to rest their modification of the treaty of the 6th of February, 1778, is, that by the treaty of the nineteenth of November, 1794, *particular favours in respect of commerce and navigation have been granted to England.*

It has been demonstrated, that no particular favours, in respect of commerce or navigation, have been granted to England. That treaty has been shewn only to recognize, regulate and moderate the exercise of rights before possessed, and before openly acknowledged to be possessed—rights which France and America had reciprocally ceded to each other,

without requiring, as a condition of the cession, that either should compel England to form a similar stipulation.

But to admit for a moment that the treaty with England might be considered as stipulating favors not before possessed; yet the American government did not so understand that treaty, and had manifested a disposition to modify, by common consent, its relations with this republic, in such manner as to reinstate a rule, which has been voluntarily changed. It cannot but be sincerely regretted, because it seemed to indicate an unfriendly temper, that France has deemed it more eligible to establish by force, in opposition to her treaty, a principle which she deemed convenient, than to fix that principle on the fair basis of mutual and amicable agreement.

But the clause, under which these modifications are justified, is in the words: "The most Christian King and the United States engage mutually not to grant any particular favor to other nations, in respect of commerce and navigation, which shall not immediately become common to the other party, who shall enjoy the same favor freely, if the concession was freely made, or on allowing the same compensation, if the concession was conditional." If these stipulations unequivocally amounted to the grant of favors, still the grant is not gratuitous. The concessions on the part of the United States are made on condition of similar concessions on the part of Britain. If, therefore, France chuses to consider them as modifications of the treaty of 1778, she can only do it by granting the reciprocal condition: on this supposition, she has either of the rules at her election, but she cannot vary from the first without a compact on her part to grant the reciprocal stipulation. Such a compact is in the nature of a national treaty.

But the rules laid down in the decree of the 12th Ventose, 5th year (March 2, 1797) as founded on the 17th, 18th, and 21st articles of the treaty of the 19th November, 1794, are materially variant from those articles. To demonstrate this, it is only necessary to contrast the rules of the decree, with the articles of the treaty on which those rules are said to be founded.

Articles of the Treaty of the nineteenth of November, 1794, as quoted by the Directory.

ARTICLE 17.

It is agreed, that in all cases where vessels shall be captured or detained on just suspicion of having on board enemies' property, or of carrying to the enemy any of the articles which are contraband of war, the said vessels shall be brought to the nearest or most convenient port; and if any property of an enemy should be found on board such vessel, that part only which belongs to the enemy shall be made prize, and the vessel shall be at liberty to proceed with the remainder without any impediment. And it is agreed,

Rules established by the arrêté of the Directory.

RULE I.

According to the seventeenth article of the treaty of London, of the nineteenth of November, 1794, all merchandize of the enemy, or merchandize not sufficiently proved to be neutral, laden under the American flag, shall be confiscated, but the vessel on board of which it shall be found, shall be released and restored to the owner. It is enjoined on the commissaries of the Executive Directory, to accelerate, by all the means in their power, the decision of contests which shall arise either

that all proper measures shall be taken to prevent delay in deciding the cases of ships or cargoes so brought for adjudication; and in the payment or recovery of any indemnification adjudged or agreed to be paid to the owners or masters of such ships.

on the validity of the prize-cargo, or on the freight and demurrage.

According to the article, when *on just suspicion* of having on board enemy's property, or of carrying to the enemy contraband of war, a vessel shall be brought into port, that part *only which belongs to the enemy* shall be made prize, according to the article, then the fact whether the property does or does not belong to an enemy is to be fairly tried. The party who would establish the fact, must prove it. The captor must show the *justice* of the suspicion on which the capture or detention was founded. The burthen of the proof rests on him. If in truth and in fact the property does not belong to an enemy, or is not proved to belong to an enemy, it must be discharged. But the rule pursues a different course. The rule declares, that merchandize of the enemy, or *not sufficiently proved to be neutral*, laden under the American flag, shall be confiscated. The burthen of the proof is shifted from the captor to the captured. The question to be tried is not solely whether the merchandize be in fact the property of an enemy, but also whether it be *sufficiently proved to be neutral*. The sufficiency of this proof is to be ascertained, not by general and satisfactory testimony, not by the great principles of truth, and the common understanding of mankind; but by the exhibition of certain papers demandable at the will of one of the parties, and not in the possession of the other. This may be a regulation which France chooses to establish; but certainly it is a regulation, essentially variant from the article it professes to resemble.

ARTICLE 18.

In order to regulate what is in future to be esteemed contraband of war, it is agreed, that under the said denomination shall be comprised all arms and implements serving for the purposes of war, by land or by sea; as cannon, muskets, mortars, petards, bombs, grenades, carcasses, faucifles, carriages for cannon, musket rests, bandoliers, gunpowder, match, salt petre, ball, pikes, swords, head pieces, cuirasses, halberts, lances, javelins, horse furniture, holsters, belts, and generally all other implements of war; as also timber for ship-building, tar, or rosin, copper in sheets, sails, hemp and cordage, and generally whatever may serve *directly to the equipment of vessels*, unwrought iron, and fir plank only excepted.

RULE 2.

According to the 18th article of the treaty of London, of the nineteenth of November, 1794, to the articles declared contraband by the 24th article of the treaty of the 6th of February, 1778, are added the following articles:

Timber for ship-building, pitch, tar and rosin, copper in sheets, sails, hemp and cordage, and every thing which serves *directly or indirectly* for the armament and equipment of vessels, unwrought iron and fir planks excepted. These several articles shall be confiscated whenever they shall be destined or attempted to be carried to the enemy.

The immense number of articles, which may serve indirectly for the armament and equipment of vessels, are made contraband by the rule of the Directory, though they are not so by the article it professes to cite.

ARTICLE 21.

It is likewise agreed, that the subjects and citizens of the two nations shall not do any acts of hostility or violence against each other, nor accept commissions or instructions so to act from any foreign prince or state, enemies to the party; nor shall the enemies of one of the parties be permitted to invite, or endeavour to enlist in their military service any of the subjects or citizens of the other party; and the laws against all such offences and aggressions shall be punctually executed. And if any subject or citizen of the said parties respectively, shall accept any foreign commission or letters of marque, for arming any vessel to act as a privateer against the other party, it is hereby declared to be lawful for the said party to treat and punish the said subject or citizen having such commission or letters of marque as a pirate.

RULE 3.

According to the 21st article of the treaty of London, of the 19th of November, 1794, every individual known to be an American, who shall hold a commission given by the enemies of France, as well as every seaman of that nation making a part of the crew of enemies ships, shall, by that act, be declared a pirate, and treated as such, without being allowed, in any case, to alledge that he was forced to do it by violence, menaces or otherwise.

The government of the United States has never formed a treaty comprehending an article in any degree similar to this rule. It has never assented to such stipulations as they relate to its own citizens, or required them as they relate to those of other powers. The difference between the article and the rule requires no comment. Nor will the rule be commented on. The undersigned will only observe, that the article is by no means uncommon, but is to be found in most treaties of amity and commerce. The 21st article of the treaty with France, the 19th of the treaty with the United Provinces, the 23d of the treaty with Sweden, and the 20th article of the treaty with Prussia, contain similar stipulations. It is not easy to conceive a reason why it should not also be inserted in a treaty with England, or why its insertion should give offence to France.

But the fourth rule of the decree is, in its operation, the most extensive and the most seriously destructive. That rule declares, that "conformably to the law of the 14th of February, 1793, the regulations of the 21st of October, 1744, and of the 26th of July, 1778, concerning the manner of proving the property of neutral ships and merchandize, shall be executed according to their form and tenor."

"Every American ship shall, there ore, be a good prize, which shall not have on board a list of the crew in proper form, such as is prescribed by the model annexed to the treaty of the 6th of February, 1778, the observance of which is required by the 25th and 27th articles of the same treaty."

This rule requires, that American ships and merchandize, in order to prove the property to be American, shall exhibit certain papers, and especially a rôle d'équipage, which are required of neutrals generally by the particular marine ordinances of France, recited in the decree of the Directory. But France and America have entered into a solemn treaty, one object of which was to secure the vessels of either party, which might be at peace, from the cruizers of the other which might be engaged in war. To effect this object, the contracting parties have not referred each other to the particular statutes or ordinances of either government, but have enumerated the papers which should be deemed sufficient. They have done more: They have prescribed the very form of the passport which should establish the neutrality of the vessel, and prevent her being diverted from her course. The 25th and 27th articles of the treaty between the two nations, which are quoted by the Directory, and are considered by the undersigned as conclusive on this subject, are in these words:—

ARTICLE 25.

“ To the end that all manner of dissensions and quarrels may be avoided and prevented on the one side and on the other, it is agreed, that in case either of the parties hereto should be engaged in war, the ships and vessels belonging to the subjects or people of the other ally must be furnished with sea-letters or passports, expressing the name, property and bulk of the ship, as also the name and place of habitation of the master or commander of the said ship, that it may appear thereby, that the said ship really and truly belongs to the subjects of one of the parties, which passport shall be made out and granted according to the form annexed to this treaty; and they shall likewise be recalled every year, that is, if the ship happens to return home in the space of a year. It is likewise agreed, that such ships, being laden, are to be provided not only with passports, as above mentioned, but also with certificates containing the several particulars of the cargo, the place whence the ship sailed, and whither she is bound, that so it may be known whether any forbidden or contraband goods be on board the same; which certificates shall be made out by the officers of the place, whence the ship set sail, in the accustomed form; and if any one shall think it fit or adviseable to express in the said certificates the person to whom the goods on board belong, he may freely do so.”

ARTICLE 27.

“ If the ships of the said subjects, people or inhabitants of either of the parties, shall be met with either sailing along the coasts, or on the high seas, by any ship of war of the other, or by any privateers, the said ships of war or privateers, for the avoiding of any disorder, shall remain out of cannon shot, and may send their boats aboard the merchant ship, which they shall so meet with, and may enter her to the number of two or three men only, to whom the master or commander of such ship or vessel shall exhibit his passport, concerning the property of the ship, made out according to the form inserted in this present treaty; and the ship, when she shall have shewed such passport, shall be free and at liberty to pursue her voyage, so as it shall not be lawful to molest or search her in any manner, or to give her chase, or force her to quit her intended course.”

It will be admitted, that the two nations possess the power of agreeing, that any paper, in any form, shall be the sole document, demandable by

either from the other, to prove the property of a vessel and cargo. It will also be admitted, that an agreement so made becomes the law of the parties, which must retain its obligation.

Examine then the words of the compact, and determine by fair construction what will satisfy them.

The 25th article states substantially the contents of a paper, which is termed a sea-letter or passport, and which "it is agreed that in case either of the parties should be engaged in war, the ships and vessels belonging to the subjects or people of the other ally must be furnished with." To what purpose are they to be furnished with this sea-letter or passport? The article answers, "To the end that all manner of dissensions and quarrels may be avoided and prevented, on one side and the other;" "That it may appear thereby that the ship really and truly belongs to the subjects of one of the parties."

But how will the passport "prevent and avoid all manner of dissensions and quarrels on one side or the other," if ordinances, both prior and subsequent to the treaty, are to be understood as controlling it, and as requiring other papers not contemplated in the public agreement of the two nations? How is it to appear from the passport, "that the ship really and truly belongs to the subjects of one of the parties," if it is denied that the passport is evidence of that fact, and contended that other papers, not alluded to in the treaty, shall be adduced to prove it?

But the 27th article is still more explicit. It declares, that when a merchant ship of one of the parties shall be visited by the ships of war or privateers of the other, "the commander of such ship or vessel shall exhibit his passport, concerning the property of the ship, made out according to the form inserted in the present treaty, and the ship, when she shall have shewed such passport, shall be free and at liberty to pursue her voyage, so as it shall not be lawful to molest or search her in any manner, or to give her chase, or force her to quit her intended course." What is it that shall prove the property of the vessel? The treaty answers, the passport. But the decree of the Directory requires in addition certain other papers, perfectly distinct from the passport. The treaty declares, that "the ship when she shall have shewed (not the rôle d'équipage, or any other paper, required by the particular ordinances of either nation, but) "such passport, shall be free and at liberty to pursue her voyage, so as it shall not be lawful to molest or search her in any manner, or to give her chase, or force her to quit her intended course." Yet the vessels of America, after exhibiting "such passport," are not "free and at liberty to pursue their voyage;" they are "molested;" they are "chased;" they are "forced to quit their intended course;" they are captured and confiscated as hostile property."

It is alledged, that the form of the passport, which is annexed to the treaty, manifests that certain acts were to be performed by the person to whom the passport is delivered, and that such person ought to prove the performance of those acts.

But the treaty, far from requiring such proof, absolutely dispenses with it. The treaty declares, that the passport shall itself evidence the property of the vessel, and secure it from molestation of any sort. By consent of the parties then, the passport is evidence of all that either party can require from the other. Neither the right to give such consent, or the obligation of a compact formed upon it, can, as is conceived, ever

be denied, nor can the form of the passport, whatever it may be, change the compact.

But let the words of the model be examined. They are : " A tous ceux qui ces présentes verront : soit notoire que faculté et permission a été accordée à maître ou commandant du navire appelé de la ville de de la capacité de tonneaux ou environ, se trouvant présentement dans le port de qu'après que son navire a été visité et avant son départ, il prêtera serment entre les mains des officiers de la marine, qui le dit navire appartient à un ou plusieurs sujets de dont l'acte fera mis à la fin des présentes; de même qu'il gardera les ordonnances et reglemens maritimes, et remettra une liste signée et confirmée par temoins, contenant les noms et surnoms, les lieux de naissance, et la demeure des personnes composant l'équipage de son navire, et de tous ceux qui embarqueront, lesquels il ne recevra pas à bord sans connoissance et permission des officiers de marine; et dans chaque port ou hâvre, il montrera la présente permission aux officiers et juges de marine."

It is material to observe, that the model requires the oath concerning the property of the vessel to be annexed to the passport, but does not require any other certificate. or the annexation of any paper whatever. Why this difference? It is a solemn proof of that for which the articles stipulates, and therefore the model expresses that the evidence of this fact shall be annexed, but it does not require the production of the evidence of any other fact.

It seems then to be demonstrated, that the sea-letter or passport, a model of which is annexed to the treaty, is, by solemn agreement, to be received by each party as conclusive testimony, that the vessel producing such passport is the property of a citizen of the other, and is consequently to continue her voyage without molestation or hindrance.

But let it be supposed, that the treaty on this subject was less conclusive, and that its stipulations had been ambiguously expressed; yet it is certain, that it has been uniformly understood by both parties, as the undersigned have expounded it, and that neither France nor the United States, previous to the decree complained of, considered the vessels of either nation, producing the passport agreed on, as liable to capture for want of a rôle d'équipage.

For more than four years after her treaty with the United States, France was engaged in a war with Britain, and in the course of that time it was never suggested, that a rôle d'équipage was necessary for the protection of an American vessel. It does not weaken the argument that the United States were also parties to the war. The principle assumed is, that without the production of the papers required by the decree, the vessel does not appear to be, and cannot be considered as American property. If this principle be correct, it would not cease to apply, because the United States were engaged in the war. Was America even engaged in the war on the part of France, a British vessel carrying American colours would not be secured by the flag she bore. It would be necessary to prove by her papers, or other admissible testimony, that the vessel was American property. If this fact cannot appear without a rôle d'équipage while the United States are at peace, neither could it appear without the same evidence if the United States were parties to the war.

About four years of the present war had also elapsed before this con-

struction of the treaty, at the same time so wonderful and so ruinous, had disclosed itself. In the course of that time the ports of France were filled with the vessels of the United States. Very many of them sailed under contracts made for the government itself by its minister in Philadelphia. No one of them possessed a rôle d'équipage; no one of them was considered on that account as being liable to condemnation. Indeed, in some instances, vessels have been captured and discharged although this paper was not among those belonging to the ship.

Such a long course of practice appears to have evidenced unequivocally the sense of France on this subject.

It is too apparent to be questioned for a moment, that on the part of the United States no suspicion had ever been entertained, that such a paper could have been required. A rôle d'équipage could have been obtained with as much facility as that passport for which the treaty stipulates. Could it have been imagined that American vessels incurred the possible hazard of being retarded only one day in a voyage for want of such paper, it would in every instance have been supplied. No vessel would have sailed without it.

Your own mind, Citizen Minister, will suggest to you, with irresistible force, the extreme hardship of thus putting a new construction on a long existing contract, or of giving a new and unexpected extension to ancient municipal regulations, and of condemning thereby vessels taken on the high seas for want of a paper not known to be required, when they sailed out of port. If a rôle d'équipage was really considered by France as necessary evidence of any fact, the establishment of which was deemed essential, common usage, and those plain principles of justice which all nations should respect, indispenibly require that the regulation should first be made known to a neutral and friendly nation by other means than by the capture and confiscation of its property. If this measure had been announced to the government of the United States, before it had been put in practice, and American vessels had sailed without a rôle d'équipage, they would have taken upon themselves the hazard of such a procedure. But in a moment, when the ocean is covered with peaceful merchantmen, pursuing a just and lawful commerce, to bring into sudden operation a measure which had never before been applied to them, which had for so many years slept unheard of, and by the force of this regulation, to confiscate unguarded property which had been trusted to the seas, under the faith of solemn and existing treaties, and without a conjecture that this, more than any other formula, would have been required, is to impose on unoffending individuals a ruin from which no wise precautions, no human foresight could possibly have protected them.

On this subject then the undersigned appeal with confidence to the justice and equity of the French government.

But could it be conceded for a moment, that the Executive Directory might rightfully modify the treaty of France with the United States, by that of the United States with Britain, and might rightfully require a rôle d'équipage in order to establish the neutrality of a vessel, for want of which the vessel might be confiscated, yet, the cargo being proved to be neutral, ought to be safe.

According to the law of nations, the goods of an enemy found on board the ship of a friend, are liable to capture, and the goods of a

friend found on board the ship of an enemy are safe. The United States and France have consented to change this rule as between themselves. They have agreed, that the goods of an enemy found on board the vessels of either party shall be safe, and that the goods of either found on board the vessel of an enemy shall be liable to capture. The one part of this rule is in consequence of and dependent on the other. The one part cannot on any principle of justice be abandoned while the other is maintained.

In their treaty with England the United States retain unchanged the principle of the law of nations. If France modifies her treaty in this respect by that of England, she ought to take the principle entire. If in conformity to the treaty between the United States and England, France claims the right of taking enemies property found on board an American ship, then, in conformity with that treaty also, France ought to spare American property found on board an enemy's ship. If, therefore, this extraordinary position could be maintained, that an American ship without a rôle d'équipage becomes the ship of an enemy, still the cargo, being proved to be the property of a friend, ought, on the principle of modifying the treaty between the two nations by that with England, to have been restored to the owners.

The result of these regulations has been the most extensive and universal devastation of the American commerce. Not only vessels bound to and from the enemies of France, but vessels bound to and from her allies, and to and from her own ports have been seized and confiscated.

The inevitable consequence has been, that direct commerce between the two nations is almost annihilated, and that the property of American citizens has been taken to a much larger amount than would have been possible in a state of actual war.

Yet the government of the United States, wishing, if it be possible, to avoid even defensive measures, has sought assiduously and unremittingly, though hitherto without success, for such peaceful and amicable explanations as might do away existing animosities, and restore between the two Republics that harmony which it so truly desires.

America has accustomed herself to perceive in France only the ally and the friend. Consulting the feelings of her own bosom, she has believed that between Republics an elevated and refined friendship could exist, and that free nations were capable of maintaining for each other a real and permanent affection. If this pleasing theory, erected with so much care and viewed with so much delight, has been impaired by experience, yet the hope continues to be cherished that this circumstance does not necessarily involve the opposite extreme. It is believed that there exists no sufficient cause for solid and permanent enmity between France and the United States, but that on the contrary the interests of both would be promoted by that friendly intercourse, which a reciprocal observance of the great and immutable principles of justice would certainly establish and can alone preserve. Under this impression America resists the opinion that the present state of things has grown out of a digested system to which France designs to adhere. She wishes and she endeavours to persuade herself that temporary causes, which too often produce effects a sound and just policy must reprobate, connected with a misconstruction of the conduct of her government, as well as of the motives on which it has acted, may have occasioned those very serious aggressions of which she complains. She recedes therefore, even under the pressure of these aggressions, slowly and with difficulty from the attachments she has formed. So intertwined with every ligament of her heart have been the chords

of affection which bound her to France; that only repeated and continued acts of hostility can tear them asunder.

The government of the United States, therefore, still searches the means of terminating peacefully, and in a manner which ought to be mutually satisfactory, the calamities of the moment, and of averting the still greater calamities which may be reserved for the future. Not even the discouraging and unusual events which had preceded the present effort to negotiate could deter that government from repeating its endeavours for the preservation of amity and peace. Three citizens of the United States have been deputed as Envoys Extraordinary and Ministers Plenipotentiary to the French Republic. Their instructions authorize and direct them to review the existing treaties between the two nations, and to remove by all proper means, the inequalities which have grown out of the stipulations of those treaties, in consequence of the refusal of England to adopt the principles they contain. They are also directed to give fair and complete explanations of the conduct of the government they represent; to state fully and truly the heavy injuries which their fellow citizens have sustained; and to ask from the equity of a great and magnanimous Republic that compensation for those injuries, which, we flatter ourselves, their justice will not refuse and their liberal policy will not hesitate to give.

Bringing with them the temper of their government and country, searching only for the means of effecting the objects of their mission, they have permitted no personal considerations to influence their conduct, but have waited under circumstances beyond measure embarrassing and unpleasant, with that respect which the American government has so uniformly paid to that of France, for permission to lay before you, citizen minister, these important communications with which they have been charged.

Perceiving no probability of being allowed to enter, in the usual forms, on those discussions which might tend to restore harmony between the two Republics, they have deemed it most adviseable, even under the circumstances of informality which attend the measure, to address to your government, through you, this candid review of the conduct, and this true representation of the sentiments and wishes of the government of the United States. They pray that it may be received in the temper with which it is written, and considered as an additional effort, growing out of a disposition common to the government and people of America, to cultivate and restore, if it be possible, harmony between the two republics. If, citizen minister, there remains a hope that these desirable objects can be effected by any means which the United States have authorized, the undersigned will still solicit and will still respectfully attend the developement of those means.

If on the contrary no such hope remains, they have only to pray that their return to their own country may be facilitated; and they will leave France with the most deep-felt regret that neither the real and sincere friendship, which the government of the United States has so uniformly and unequivocally displayed for this great Republic, nor its continued efforts to demonstrate the purity of its conduct and intentions, can protect its citizens, or preserve them from the calamities which they have sought by a just and upright conduct to avert.

The undersigned pray you, Citizen Minister, to accept the assurances of their perfect respect and consideration.

(Signed)
CHARLES COTESWORTH PINCKNEY,
J. MARSHALL,
E. GERRY.

Paris, January 27th, 1798, }
in the 22d year of American
Independence. }

Translated extract from the Bulletin des Lois, No. 178, printed at Paris, and enclosed with the quadruplicate of the Envoys' letter, No. 6.

Law relative to vessels laden with English merchandize, of the 29th Nivose, 6th year, [18th Jan. 1796.]

The Council of Ancients, adopting the reasons for the declaration of urgency, which precedes the resolution herein after contained, approves the act of urgency.

Here follows the tenor of the declaration of urgency, and of the resolution of the 22d Nivose, [11th Jan. 1798.]

The Council of Five Hundred, after having heard the report of a Special Committee upon the message of the Executive Directory of the 15th Nivose [4th January] relative to English merchandize ;

Considering, that the interest of the Republic demands the most prompt measures against all vessels which may be loaded therewith ;

Declares, that there is urgency.

The Council, after having declared the urgency, resolves as follows :

A R T I C L E I.

The character of vessels, relative to their quality of neuter or enemy, shall be determined by their cargo ; in consequence, every vessel found at sea, loaded in whole or in part with merchandize the production of England or of her possessions, shall be declared good prize, whoever the owner of these goods or merchandize may be.

A R T I C L E II.

Every foreign vessel which, in the course of her voyage, shall have entered into an English port, shall not be admitted into a port of the French Republic, except in case of necessity ; in which case she shall be bound to depart from the said port as soon as the causes of her entry shall have ceased.

A R T I C L E III.

The present resolution shall be printed.

(Signed)

BOULAY (of la Meurthe) President.
GUILLEMARDET, } Secretaries.
ROEMERS, }

After a second reading, the Council of Ancients APPROVES the above resolution. The 29th of Nivose, sixth year of the French Republic [18th January, 1798.]

(Signed)

MARRAGON, President.

ET. LAVEAUX,
KAUFFMANN,
MENUAU,
MERIC, } Secretaries.

The Executive Directory orders, that the above law shall be printed, executed, and that it shall be sealed with the seal of the Republic.

Done at the National Palace of the Executive Directory,
the 29th Nivose, sixth year of the French Republic, one
and indivisible. [18th January, 1798.]

For a true copy :

(Signed)

P. BARRAS, President.

By the Executive Directory,

The Secretary-General, LAGARDE.

And sealed with the seal of the Republic.

MESSAGE *from the* PRESIDENT to CONGRESS.

Gentlemen of the Senate, and

Gentlemen of the House of Representatives,

I NOW transmit to both Houses, the Communications from our Envoys at Paris, received since the last, which have been presented by me to Congress.

JOHN ADAMS.

UNITED STATES, }
June 5th, 1798.

No. 7.

Paris, March 9th, 1798.

DEAR SIR,

AGREEABLY to what we represented to you in our No. 6. we prepared a letter to the Minister of Foreign Affairs, on the subject of the late law authorizing the capture of neutral vessels, on board of which any productions of Great Britain or its possessions should be laden, shewing how incompatible such law was with the rights of neutral nations and the treaty between France and America, its direct tendency to destroy the remaining commerce of our country, and the particular hardships to which it would subject the agricultural as well as commercial interests

of our countrymen, from the peculiar situation of the United States. We added, that under existing circumstances, we could no longer resist the conviction that the demands of France rendered it entirely impracticable to effect the objects of our mission; and that not being permanent Ministers, but Envoys Extraordinary, with full power for particular purposes, we deemed it improper to remain longer in France after the impossibility of effecting those purposes had been demonstrated. Before however we took this measure and explicitly demanded our passports, we deemed it expedient to desire Major Rutledge to call on Mr. Talleyrand, on the 19th ultimo, to know if he had any communication to make to us in consequence of our letter, dated the 17th and delivered the 31st of January. To this Mr. Talleyrand replied, that he had no answer to make, as the Directory had not taken any order on the subject, and when they did, he would inform us of it. Still being anxious to hear explicitly from Mr. Talleyrand himself, before we sent our final letter, whether there were no means, within our powers, of accommodating our differences with France, on just and reasonable grounds, we wrote to him on the 27th of February, soliciting a personal interview on the subject of our mission; he appointed the 2d of March following. You will find in the exhibit A, herewith enclosed, what passed on that occasion. On the 4th instant we requested another interview. We have detailed in the latter part of the same exhibit, for your information, the substance of that conversation. From these accounts you may observe that the views of France with regard to us, are not essentially changed, since our communications with its unofficial agents in October last.

We have the honor to be,

With great respect,

Your most obedient humble servants,

CHARLES COTESWORTH PINCKNEY,

J. MARSHALL,

E. GERRY.

Col. PICKERING, *Secretary of the United States.*

(A.)

March the 2d.

At three o'clock we waited on Mr. Talleyrand, and were almost immediately introduced to him. General Pinckney commenced the conversation by saying, that our government and ourselves were extremely anxious to remove the subsisting difference between the two Republics; that we had received many propositions through Mr. Y. to which we had found it impracticable to accede; and that we had now waited on him for the purpose of enquiring whether other means might not be devised which would effect so desirable an object. The minister replied, that without doubt, the Directory wished very sincerely on our arrival to see a solid friendship established between France and the United States, and had manifested this disposition by the readiness with which orders for our passports were given. That the Directory had been extremely wounded by the last speech of General Washington, made to Congress when about to quit the office of President of the United States; and by the first and last speech of Mr. Adams. That explanations of these speeches were expected and required of us. General Pinckney expressed

his surprise that the speech of General Washington was complained of, and said this was a new complaint. Mr. Talleyrand merely observed, that the Directory was wounded at it; and proceeded. He said, that the original favourable disposition of the Directory had been a good deal altered by the coldness and distance which we had observed. That instead of seeing him often, and endeavouring to remove the obstacles to a mutual approach, we had not once waited on him. General Pinckney observed, that when we delivered him our letters of credence, he informed us, that the Directory in a few days would decide concerning us; and that when the decision was made he would communicate it to us. That this had for some time suspended any procedure on our part. He answered that this related only to our public character, and not to private visits. General Pinckney said, that on an application made by his secretary for a passport for an American under his care, he was told that he must apply to the office of police, for that America had no minister in France, since the recall of Mr. Monroe. The minister said, that was very true; and then proceeded to say, that the Directory felt itself wounded by the different speeches of Mr. Washington and Mr. Adams, which he had stated, and would require some proof, on the part of the United States of a friendly disposition previous to a treaty with us. He then said that we ought to search for and propose some means which might furnish this proof; that if we were disposed to furnish it, there could be no difficulty in finding it; and he alluded very intelligibly to a loan. He said, he had several conferences with Mr. Gerry on this subject, who had always answered that we had no power. Mr. Gerry said, that he had stated other objections; that he had particularly urged that it would involve us in a war with Great Britain. He made no reply; and General Pinckney observed, that a loan had repeatedly been suggested to us, but that we had uniformly answered, that it exceeded our powers. Mr. Talleyrand replied, that persons at such a distance as we were from our government, and possessed as we were of the public confidence, must often use their discretion, and exceed their powers for the public good. That there was a material difference between acting when instructions were silent, and doing what was particularly forbidden; that if indeed a loan was positively forbidden, we might consider ourselves as incapable of making one; but if, as he supposed was the case (he looked the question) our instructions were only silent, that it must be referred to us to act in a case not provided for according to the best of our judgment, for the public good: that in almost all the treaties made during the revolution, the negociators had exceeded their powers; although the government appointing them was at no considerable distance. He particularized the treaty with Prussia, and several others. General Pinckney told him that our powers did not extend to a loan, and perhaps might forbid it. The Minister still urged the difference between an express prohibition and mere silence. He then proceeded to state that the principal objection on the part of our government to a loan must be, that it would draw us out of the neutral situation in which we wished to continue; that there were various means of evading this; first, the secrecy of France, which might be relied on: and secondly, means of disguising the loan might be devised, which would effectually prevent its being considered as an aid during the present war: that if we were truly and sincerely desirous of effecting the thing, we should experience no difficulty

in finding the means. He again stated a proposition of this sort, on our part, as being absolutely necessary to prove that the government was not about entering into a treaty with persons of a temper hostile to it. Mr. Gerry not well hearing Mr. Talleyrand, who spoke low, asked him to explain himself with respect to the proposition which he had alluded to, supposing it to be a new one; and he answered that one of them was secrecy; but that there were besides various ways which might easily be suggested to cover the loan, as an immediate one, by limiting the time of advancing it to distant instalments. Mr. Gerry observed, that Dutrmond had suggested that a loan was proposed to be made, payable after the war, and in supplies to St. Domingo. Mr. Talleyrand signified, that that might be one of the means used; and said, that if we were only sincere in our wish, it would be easy to bring about the end. General Marshall told Mr. Talleyrand, that if the Ministers of the United States had manifested any unwillingness to take all proper measures to reconcile the two Republics, or any indifference on the subject, they had very badly represented the feelings and wishes of their government; that the government of the United States was most sincerely desirous of preserving the friendship of France, and had, in his opinion, unequivocally manifested that desire, by having deputed us under the extraordinary circumstances attending our mission, and by having so long patiently borne the immense loss of property which had been sustained; that we had endeavoured, according to the best of our judgment, to represent truly this disposition of our government; but that we understood that France would consider nothing as an evidence of friendship, but an act which would transcend and violate our powers, and at the same time operate the most serious injury to our country; that neutrality, in the present war, was of the last importance to the United States, and they had resolved faithfully to maintain it; that they had committed no act voluntarily, which was a breach of it; and could do nothing in secret, which, if known, would justly arrange them among the belligerent powers; that in the present state of things, if America was actually leagued with France in the war, she would only be required to furnish money; that we had neither ships of war or men to be employed in it, and could consequently, as a belligerent power, only be asked for money; that, therefore, to furnish money, was, in fact, to make war; which we could by no means consent to do; and which would absolutely transcend our powers; being an act altogether without the view and contemplation of our government, when our mission was decided on: that with respect to supplies to St. Domingo, no doubt could be entertained that our merchants would furnish them very abundantly, if France would permit the commerce; and a loan really payable after the close of the war, might then be negotiated. Mr. Talleyrand again marked the distinction between silence of instructions and an express prohibition; and again insisted on the necessity of our proving, by some means which we must offer, our friendship for the republic. He said, he must exact from us, on the part of his government, some proposition of this sort; that to prove our friendship, there must be some immediate aid, or something which might avail them; that the principles of reciprocity would require it. General Pinckney and General Marshall understood him, by this expression, to allude to the loan formerly made by France to the United States. Mr. Gerry, at the time, thought he alluded to the treaty to be made; and said, all treaties should

be founded in reciprocity: and then asked him, whether a loan was the ultimatum of this government. Mr. Talleyrand did not give a direct answer to the question: he said, as he was understood, that the government insisted on some act which would demonstrate our friendly disposition towards, and our good wishes for the Republic; this once done, he said, the adjustment of complaints would be easy; that would be matter of enquiry; and if France had done us wrong, it would be repaired. But that if this was refused, it would increase the distance and coldness between the two Republics. The conversation continued in this style until four o'clock, when we took our leave, and agreed to meet in the evening.

In the course of it, and in reply to some observations of Mr. Talleyrand, respecting the proofs of friendship required by France, General Pinckney observed, that our being here was a mark of the friendly disposition of our government, and that while we were here, the government had passed a decree for seizing neutral vessels having on board any article coming out of England; which in its operation would subject to capture all our property on the ocean. Mr. Talleyrand replied, that this was not particular to us, but was common to all the neutral powers. At another time, in answer to his demand of some mark of our friendship, General Marshall observed, that we considered the mutual interests of the two nations as requiring peace and friendship; and we relied on finding sufficient motives in the interest of France, to preserve that friendship; without forcing us to an act which transcended our powers, and would be so injurious to our country. As we were taking our leave, Mr. Talleyrand again noticed our not visiting him and said, that he conceived our not having had an audience from the Directory ought not to have prevented it. General Marshall told him, that our seeing the Directory, or not, was an object of no sort of concern to us; that we were perfectly indifferent with regard to it; but that we conceived that until our public character was in some degree recognized, and we were treated as the ministers and representatives of our government, we could not take upon ourselves to act as ministers; because by doing so, we might subject ourselves to some injurious circumstance to which we could not submit. He said that was very true; but that we might see him as private individuals; and discuss the objects of difference between us.

We requested of Mr. Talleyrand another interview, at such hour as might be convenient to him, on the sixth instant. He answered, that he would receive us at half past eleven; at which hour we attended him.

Immediately after our arrival at his office, we were introduced to the minister; and General Pinckney stated, that we had considered, with the most serious attention, the conversation we had had the honor of holding with him a few days past: that the propositions he had suggested, appeared to us to be substantially the same with those which had been made by Mr. X. by Mr. Y. and also to Mr. Gerry, with an intention that they should be communicated to his colleagues; that we considered it as a proposition, that the United States should furnish aid to France, to be used during the present war: that though it was unusual to disclose instructions, yet we would declare to him, that in addition to its being a measure amounting to a declaration of war against Great Britain, we were expressly forbidden by our instructions to take such a step.

The Minister said, in the tone of a question, he supposed our instructions were, to do nothing which would amount to a departure from our neutrality.

General Pinckney said, that we were so instructed, and that they were still more particular. Mr. Talleyrand then proceeded to argue, that it would be no departure from neutrality, to stipulate a loan payable after the war: and spoke of it clearly as admitting of application to immediate use. He said a good deal of the secrecy with which the transaction might be clothed; and observed further, that a loan payable after the war would be a proof of our faithful observance of the duties of neutrality; since it would be considered as proving that we had rejected propositions for an immediate loan. General Marshall replied, that we thought differently; that in our opinion, any act, on the part of the American government, on which one of the belligerent powers could raise money for immediate use, would be furnishing aid to that power, and would be taking part in the war. It would be, in fact, to take the only part which, in the existing state of things, America could take. This was our deliberate opinion; and in addition to it, we considered our instructions as conclusive on this point.

He observed, that we had claims on the French government, for property taken from American citizens. Some of those claims were probably just. He asked, if they were acknowledged by France, whether we could not give a credit as to the payment—say for two years? We answered that we could. He then insisted that it was precisely the same thing; that by such an act, we should consent to leave in the hands of France, funds to which our citizens were entitled, and which might be used in the prosecution of the war. General Pinckney said there was a difference between the cases; that such prizes were now actually in the power of the French, without our consent; we could not prevent it or get them out; but the granting or not granting a loan was in our own power. He repeated his observation; and General Marshall said, that the property for which money was due to American citizens from the French government, was taken into the possession of that government, without any co-operation on the part of the United States. No act of any sort was performed by our government, which in any degree contributed to place those funds in the hands of France, nor was there any consent towards it; but in the case proposed, the act would be the act of the government; the government would itself place funds in the hands of France, and thereby furnish means which might be employed in the prosecution of the war. This was the distinction between the cases, and in a question of neutrality, it appeared to us to be all important.—The Minister then proceeded to state the case of our assuming the debt of our citizens, and of paying the money in that manner; but General Pinckney and Mr. Gerry told him we were positively forbidden to assume the debt to our own citizens, even if we were to pay the money directly to them. He seemed surprized at this. General Pinckney observed, that contrary to usage, we had deemed it proper, in the existing state of things, to state candidly our powers to him, that he might know certainly that we could not secretly, or under any disguise whatever, make a loan which might be used during the war. Mr. Talleyrand said, he must resume his position, that there was a difference, which he must insist upon, between a loan payable immediately, and a loan payable in

future; and he still insisted there was no difference between a loan payable in future, and a credit for the money which might be due to our citizens. Mr. Gerry observed, that his colleagues had justly stated the distinction between the debt which will be due to the citizens of the United States from France, in case of her recognizing the claims which we shall make in their behalf, and a debt which might arise from a loan by the government of the United States to that of France, during the war. The one is the result of an arrest of their property without their consent; the other would be a voluntary act of the government of the United States, and a breach of their neutrality. There is an additional objection to the latter: if the United States should make such a loan, it would give too much reason to suppose that their government had consented, in a collusive manner, to the capture of the vessels of their citizens, and had thus been furnishing France with supplies to carry on the war. Our instructions are express, not to stipulate for any aids to France, either directly or indirectly, during the war. With respect to a secret stipulation, a loan cannot be made without an act of the legislature: but if the Executive were adequate to it, we have had an instance of an injunction of secrecy on members of the Senate, on an important subject, which one of the members thought himself warranted in publishing in the newspapers; and of frequent instances of secrets which have otherwise escaped: secrecy, in this instance, might therefore be considered, if the measure was in itself admissible, as being impracticable. General Marshall observed, that we had considered the subject with great solicitude, and were decidedly of opinion, that we could not, under any form, make a loan which could be used during the war; that we could not tell what our government would do, if on the spot; but were perfectly clear, that without additional orders, we could not do what France requested. Mr. Gerry observed, that the government and nation of the United States, as well as ourselves, were earnestly solicitous to restore friendship between the two republics; that as General Marshall had stated, we could not say what our government would do, if on the spot; but if this proposition met the wishes of the government of France, General Marshall and himself had agreed immediately to embark for the United States, and lay before our government the existing state of things here, as it respected our nation, to enable them to determine whether any, and what other measures on their part were necessary. Mr. Talleyrand made no observation on this proposition: but enquired whether we expected soon to receive orders. Mr. Gerry mentioned an answer he had received to a letter sent by him in November; and General Marshall stated, that our first dispatches were sent on board two vessels at Amsterdam, on the 28th of November; from which Mr. Talleyrand could form as just an idea as we could, when an answer might be expected: but he did not think it probable one would arrive before a month to come. General Marshall told him, we knew that our government had not received our dispatches on the 8th of January; and we could not tell when they might be received. He asked whether our intelligence came through England? General Marshall answered that it did not; and General Pinckney said, that American papers as late as the 8th of January mentioned the fact.

There was some conversation about the time when these instructions might be expected; and General Marshall suggested a doubt whether our

government might give any instructions. He asked, with some surprise, whether we had not written for instructions? and we answered, that we had not: and Mr. Gerry said that we had stated facts to our government, and conceived that nothing more was necessary. General Pinckney observed, that the government knowing the facts, would do what was proper; and that our applying or not applying for instructions would not alter their conduct. Mr. Talleyrand then enquired whether we had not sent any one to the United States. General Pinckney said no: and Mr. Gerry added, that soon after our arrival we had made propositions to send one of our number, which were not accepted. And General Marshall further added, that those who had communicated with us, had told us we should be ordered out of France immediately; and we had supposed that we should be ordered out before our letters could reach the government. Mr. Gerry then observed, that the government of France must judge for itself; but that it appeared to him, that a treaty on liberal principles, such as those on which the treaty of commerce between the two nations was first established, would be infinitely more advantageous to France than the trifling advantages she could derive from a loan. Such a treaty would produce a friendship and attachment on the part of the United States to France, which would be solid and permanent, and produce benefits far superior to those of a loan, if we had powers to make it. To this observation Mr. Talleyrand made no reply. We parted without any sentiment delivered by the Minister on the subject of our going home to consult our government.

As we were taking our leave of Mr. Talleyrand, we told him that two of us would return immediately to receive the instructions of our government, if that would be agreeable to the Directory: if it was not, we would wait some time, in the expectation of receiving instructions.

MESSAGE *from the* PRESIDENT to CONGRESS.

*Gentlemen of the Senate, and
Gentlemen of the House of Representatives,*

I NOW transmit to Congress the Dispatch, Number 8, from our Envoys Extraordinary to the French Republic, which was received at the Secretary of State's office, on Thursday the fourteenth day of this month.

JOHN ADAMS.

*United States,
June 18th, 1798. }*

(No. 8.)

Paris, April 3, 1798.

DEAR SIR,

WE herewith transmit you the copy of a letter written to us by the Minister of Foreign Affairs, dated the 28th Ventose, (18th March) and purporting to be an answer to our memorial of the 17th of January.

We also send you in this inclosure a copy of our reply, which has been presented this morning. As soon as we certainly know what steps the French government mean to pursue in consequence of this reply, you shall be informed of them.

We remain, with great respect and esteem,
Your most obedient servants,

CHARLES COTESWORTH PINCKNEY,
J. MARSHALL,
E. GERRY.

*Colonel Pickering, Secretary }
of the United States.*

[TRANSLATION.]

*The Minister of Foreign Relations of the French Republic,
To Messrs. CHARLES COTESWORTH PINCKNEY, J. MARSHALL, and
E. GERRY.*

THE undersigned Minister of Foreign Relations of the French Republic, has laid before the Executive Directory, the memorial which the Commissioners and Envoys Extraordinary of the United States of America have transmitted to him, under the date of 28th Nivose last,

[17th January, 1798] and it is in execution of the intentions of the Directory, which desires to convince the United States of the true dispositions which animate it with respect to them, that the undersigned communicates to the Commissioners and Envoys Extraordinary the following observations.

The first thing which must excite attention, in the memorial of the Commissioners and Envoys Extraordinary, is the method which they have thought proper to pursue in the exposition and in the discussion of the points which are in dispute between the two states. The Executive Directory, animated with dispositions the most conciliatory, and penetrated with the interests which should draw the two nations together, as well as eager to concur in the well known wish of the two people, to maintain a perfect intimacy, had reason to expect, that the Envoys would have brought, in the name of their government, dispositions entirely similar, and a temper previously prepared by the same views and the same desires. What must be, after this, the surprize of the Executive Directory, when the undersigned rendered it an account of a memorial, in which the Commissioners and Envoys Extraordinary, reversing the known order of facts, have aimed to pass over, as it were in silence, the just motives of complaint of the French government, and to disguise the true cause of the misunderstanding, which is prolonged between the two Republics! So that it would appear, from that exposition, as partial as unfaithful, that the French Republic has no real grievance to substantiate, no legitimate reparation to demand, whilst the United States should alone have a right to complain, should alone be entitled to claim satisfaction.

The designs, which have induced a preference of this course to every other, have not escaped the Executive Directory; and it is as well from a just sentiment of the dignity of the Republic, whose interests are confided to it, as to provide eventually against the views, which may be contemplated by such conduct, that it has charged the undersigned to dispel these empty appearances, which indeed cannot exist when facts shall be re-established, and the true intentions of the Directory shall be solemnly made to appear, in opposition to those which can be attributed to it only gratuitously, and by taking advantage of its silence.

An incontestible truth, and one which has been entirely passed over in the memorial of the Commissioners and Envoys Extraordinary, is, that the priority of grievances and complaints belonged to the French Republic; that these complaints and these grievances were as real as numerous, long before the United States had the least grounded claim to make, and consequently before all the facts, on which the Envoys rest with so many details, had existed.

Another truth, not less incontestible, is, that all the grievances which the Commissioners and Envoys Extraordinary exhibit, with the exceptions, which the undersigned was ready to discuss, are a necessary consequence of the measures which the prior conduct of the United States had justified on the part of the French Republic, and which its treaties with the said United States authorized in certain cases, which it depended upon the General Government of the Union to create or not to create.

It would be foreign to the purpose to enter into an enumeration of the complaints which the French government had room to make against the Federal government, since the commencement of the war, excited

against the French Republic, by a power jealous of its prosperity and its regeneration. These details are contained in the numerous official communications, made at Philadelphia by the Ministers of the Republic, and have been recapitulated by the predecessor of the undersigned, in a note addressed, under the date of 19th Ventose, in the 4th year, [9th March, 1796] to the Minister Plenipotentiary of the United States at Paris, and very particularly detailed in the official note of Citizen Adet, dated at Philadelphia, on the 25th Brumaire, in the 5th year [15th November, 1796]. Complaint was made in the above note of the inexecution of the treaties concluded in 1778, in the only clauses in which France had stipulated some advantages, in return for the efforts which she engaged to make for the common benefit, and against the insults offered to the dignity of the French Republic.

In fact, from the commencement of the war, the American tribunals have claimed the right to take cognizance of the validity of prizes carried into the ports of the United States by French cruizers. It has resulted from this pretension, contrary to the letter of the treaty of commerce of 1778, that the property of citizens of the Republic has been unjustly detained, and that French cruising has been totally discouraged in the American seas against an enemy, who revived the most barbarous laws of that mode of warfare, to destroy and insult the American commerce, even under the eyes of the Federal government.

That government did not confine itself to favour the enemies of the French Republic in a point so essential, a point on which in truth some abuses might arise, but which the French government manifested itself disposed to prevent; it even went so far as to permit enemy's vessels, contrary to the literal meaning of the above treaty, to put into the ports of the United States, after having captured *the property or ships belonging to French citizens*. Soon afterwards a national corvette, at anchor in the port of Philadelphia,* was seized by order of the government, and this arrest was afterwards extended even to her commander. The American tribunals, in like manner, arrested the person of the ex-governor of Guadaloupe, for acts of his administration; and it was necessary that the Executive Directory should threaten to make reprisals to put this affair in the course prescribed by the law of nations.

During the whole space of time which has been just reviewed, the French government made fruitless efforts to induce the government of the United States, to procure for the agents of the Republic, the legal means of carrying into effect the clauses of the consular convention of 1788, which granted to our navigation and commerce, privileges whose principle was consecrated by the treaties of 1778; and nothing could ever be obtained in this respect but fruitless references to the tribunals. In general, all matters, which, with intentions sincerely conciliatory, should have been terminated by means of negociation, were habitually referred to the judicial authorities; and these, whether they were or were not subject to a secret influence, in the end either deprived the Republic of rights founded upon treaties, or modified their exercise as suited the system of the government.

Such was the true state of things in the month of August, 1795, the period when the ratification of the Treaty of Amity, Navigation and

* *Seizure of the Cassius, in August, 1795.*

Commerce, signed at London in the month of November preceding, between the United States and Great-Britain, filled the measure of the grievances of the republic.

What had been, until then, the conduct of the French government towards the United States? The undersigned, in order to contrast it with that of the said States, will content himself with recalling facts, which cannot however have been forgotten.

Occupied with the most pressing cares in Europe, the republic did not direct her attention to the United States, but in order constantly to give them new proofs of the most sincere friendship and interest, and she left it to her agents, amicably to discuss with the Federal government, the controversies which have just been sketched, and which, had they been handled on both sides in the true spirit of conciliation, could not have altered their good understanding to the present degree. The republic was hardly constituted, when a minister was sent to Philadelphia, whose first act was to declare to the United States, that they would not be pressed to execute the defensive clauses of the Treaty of Alliance, although the circumstances, in the least equivocal manner, exhibited the *casus fœderis*. Far from appreciating this conduct, the American government received it as the acknowledgment of a right; and it is in this spirit also, that the Commissioners and Envoys Extraordinary have met this question in the beginning of their memorial. The Minister of the republic at Philadelphia, having given uneasiness to the American government, was readily recalled, even with circumstances of extreme rigour. His successor carried to the United States every desirable reparation, as well as declarations the most friendly and sincere.

Nothing equals the spirit of conciliation, or rather of condescension, in which his instructions were drawn, relatively to all the points which caused any uneasiness in the Federal government. The citizen Adet again enforced, in the name of the National Convention, those expressions of good will; and that assembly itself received, with the effusion of an unbounded confidence and security, the new Minister, whom the President of the United States sent to it, with the apparent intention of sincerely corresponding with the dispositions which the republic had not ceased to profess.

What might appear incredible is, that the republic, and her alliance, were sacrificed at the moment when she thus redoubled her regards for her ally; and that the corresponding demonstrations of the Federal government, had no other object, but to keep her, as well as her government, in a false security.—And yet it is now known, that, at this very period, Mr. Jay, who had been sent to London, solely, as it was then said, to negotiate arrangements relative to the depredations committed upon the American commerce, by the cruisers of Great-Britain, signed a Treaty of Amity, Navigation and Commerce, the negotiating and signing of which had been kept a profound secret at Paris and at Philadelphia. This Treaty was avowed to our Minister Plenipotentiary only at the last extremity; and it was communicated to him only for form's sake, and after it had received the ratification of the Senate. When the agents of the republic complained of this mysterious conduct, they were answered by an appeal to the Independence of the United States, solemnly sanctioned in the Treaties of 1778—a strange manner of contesting a grievance, the reality of which was demonstrated by the dissimulation to

which recourse was had—an insidious subterfuge, which substitutes for the true point of the question, a general principle, which the republic cannot be supposed to dispute, and which destroys, by the aid of a sophism, that intimate confidence, which ought to exist between two allies, and which, above all, ought to exist between the French republic and the United States.

If it be difficult to find in this conduct what ought to be expected from a friend, what must be thought of the treaty itself, and of its provisions? This Treaty is now known to all Europe; and the small majority by which it passed the two Houses, as well as the multitude of imposing wishes which were expressed by the nation against such an act, bear honorable testimony in favour of the opinion which the French government has adopted concerning it. The undersigned will not repeat, with respect to this Treaty, what his predecessor has said of it, in his note of the 19th Ventose, before cited, and in that of the 19th Messidor following, nor what the Minister Plenipotentiary of the republic at Philadelphia has set forth, at great length, in his official note of the 25th Brumaire. He will content himself with observing, summarily, that in this Treaty, every thing having been calculated to turn the neutrality of the United States to the disadvantage of the French republic, and to the advantage of England; that the Federal government having in this act made to Great-Britain concessions, the most unheard of, the most incompatible with the interests of the United States, the most derogatory to the alliance which subsisted between the said States and the French republic; the latter was perfectly free, in order to avoid the inconveniencies of the Treaty of London, to avail itself of the preservative means with which the law of nature, the law of nations, and prior Treaties, furnished it.

Such are the reasons which have produced the decrees of the Directory, of which the United States complain, as well as the conduct of its agents to the West-Indies. All these measures are founded on the 2d article of the Treaty of 1778, which requires, that, in matters of navigation and commerce, France should always be, with respect to the United States, on the footing of the most favoured nation. The Executive Directory cannot be arraigned, if, from the execution of this eventual clause, some inconveniences have resulted to the American flag. As to the abuses which may have sprung from that principle, the undersigned again repeats, that he was ready to discuss them in the most friendly manner.

From this faithful exposition of facts, which have progressively led to the present misunderstanding between the two States, it results, as the undersigned has said, in the beginning of this answer, that the priority of grievances belongs to the French republic; and that such of its measures as may have occasioned the complaints of the United States, are, with some exceptions, the natural consequence of a state of things, which it depended upon them to create or not create.

If the undersigned should terminate the exposition of the grievances of the republic with the Treaty of London, he would imperfectly fulfil his task—It is his duty to carry his views further. From the moment that the Treaty in question was put into execution, the government of the United States seemed to think itself freed from the necessity of keeping any measures with the republic; notwithstanding the

reiterated assurance which had been given to its ministers, that the treaty would in no respect change the pre-existing state of neutrality of the United States, notice was given in the course of the year 1796, to the French cruizers, that they could no longer, as had been until then practised, be permitted to sell their prizes in the ports of the United States. This decision was rendered by the Federal court of justice, and founded upon the treaty concluded between the United States and Great-Britain.

The newspapers, known to be under the indirect controul of the cabinet, have since the treaty redoubled the invectives and calumnies against the Republic and against her principles, her magistrates, and her envoys. Pamphlets, openly paid for by the minister of Great-Britain, have reproduced, in every form, those insults and calumnies, without a state of things so scandalous having ever attracted the attention of the government, which might have repressed it. On the contrary, the government itself was intent upon encouraging this scandal, in its public acts. The Executive Directory has seen itself denounced in a speech delivered by the President in the course of the month of May last (O. S.) as endeavouring to propagate anarchy and division within the United States. The new allies which the Republic has acquired, and who are the same that contributed to the independence of the Americans, have been equally insulted, in the official correspondencies which have been made public, or in the newspapers. In fine, one cannot help discovering, in the tone of the speech and of the publications which have been just pointed out, a latent enmity which only waits an opportunity to break out.

Facts being thus established, it is disagreeable to be obliged to think that the instructions, under which the commissioners have acted, have not been drawn up with the sincere intention of attaining pacific results; because, far from proceeding in their memorial upon some avowed principles and acknowledged facts, they have inverted and confounded both, so as to be enabled to impute to the Republic all the misfortunes of a rupture, which they seem willing to produce by such a course of proceeding. It is evident that the desire plainly declared of supporting, at every hazard, the treaty of London, which is the principal grievance of the Republic, of adhering to the spirit in which this treaty was formed and executed, and of not granting to the Republic any of the means of reparation, which she has proposed, through the medium of the undersigned, have dictated those instructions. It is equally evident, that no hesitation is made in sacrificing to these strange sentiments, those, which the treaties of 1778, and the recollection of the circumstances in the midst of which they were concluded, ought to inspire.

The remote consequences of such conduct have not escaped the attention of the Directory. It is desired, while nothing is omitted to prolong the misunderstanding, and even to augment it, to throw upon the Republic all the odium, in the view of America and of Europe. It is sought to justify by delusive appearances the prejudices with which the name of the Republic is surrounded at pleasure, and the system of exasperation and alienation which is pursued in relation to it, with the most strange obstinacy. It is finally wished to seize the first favorable occasion to consummate an intimate union, with a power, towards which a devotion and partiality is professed, which has long been the principle of the conduct of the Federal government.

The intentions which the undersigned here attributes to the government of the United States, are so little disguised, that nothing seems to have been neglected at Philadelphia to manifest them to every eye. It is probably with this view, that it was thought proper to send to the French Republic, persons whose opinions and connections are too well known, to hope from them dispositions sincerely conciliatory. It is painful for the undersigned to be obliged to make a contrast between this conduct, and that which was pursued towards the cabinet of St. James, under similar circumstances. An

eagerness was then felt to send to London, ministers well known for sentiments corresponding with the object of their mission. The Republic, it seems, might have expected a like deference; and if the same propriety has not been observed with respect to it, it is exceedingly probable, that it is to be attributed to the views above alluded to by the undersigned.

It is impossible to foresee whither such dispositions may lead. The undersigned does not hesitate to believe, that the American nation, like the French nation, sees this state of things with regret, and does not consider its consequences without sorrow. He apprehends, that the American people will not commit a mistake, concerning the prejudices with which it has been desired to inspire them against an allied people, nor concerning the engagements which it seems to be wised to make them contract to the detriment of an alliance, which so powerfully contributed to place them in the rank of nations, and to support them in it; and that they will see in these new combinations, the only dangers their prosperity and importance can incur.

Penetrated with the justice of these reflections and their consequences, the Executive Directory has authorized the undersigned to express himself with all the frankness which becomes the French nation. It is indispensable, that in the NAME of the Directory he should dissipate those illusions, with which for five years the complaints of the ministers of the Republic have been incessantly surrounded at Philadelphia, in order to weaken, calumniate, or distort them: it was essential, in fine, that by exhibiting their sentiments in an unequivocal manner, he should clear up all the doubts, and all the false interpretations, of which they might be the object.

It is, therefore, only in order to smooth the way of discussions, that the undersigned has entered into the preceding explanations. It is with the same view, that he declares to the commissioners and envoys extraordinary, that notwithstanding the kind of prejudice, which has been entertained with respect to them, the Executive Directory is disposed to treat with that one of the three, whose opinions, presumed to be more impartial, promise, in the course of the explanations, more of that reciprocal confidence, which is indispensable.

The undersigned flatters himself, that this overture will not meet, on the part of the commissioners and envoys extraordinary, with any serious difficulty. It is still more natural to hope it, because, by the tenor of their powers, the said commissioners and envoys extraordinary, are authorized to negotiate jointly or separately: So that nothing but the desire of preventing any accommodation could produce any objection against this measure; which moreover is only pointed out to the commissioners themselves, in order that nothing may here bear an unfavorable appearance; and which evidently has no other object than to assure to the negotiation an happy issue, by avoiding at the outset every thing which may on either side awaken, in the course of this negotiation, sentiments calculated to endanger it.

The undersigned hopes, that the commissioners and envoys extraordinary will soon enable him to inform the Executive Directory of their determination. Whatever this determination may be, the undersigned flatters himself, that the explanations into which he has entered, will have placed the subjects in dispute in their true light, and may eventually serve to dissipate, in the eyes of all impartial men, the unfavorable impression, which it might be endeavoured to fix upon the intentions of the French Republic and its government. He concludes by renewing to the commissioners and envoys extraordinary the assurance of his consideration.

(Signed)

CH. MAU. TALLEYRAND.

Paris, 28th Ventose, 6th year. [18th March, 1798.]

Faithfully translated,

JACOB WAGNER.

The Ministers Plenipotentiary and Envoys Extraordinary from the United States of America to the French Republic, to the Minister of Exterior Relations.

CITIZEN MINISTER,

YOUR letter of the 28th Ventose (18th March) in answer to a memorial of the undersigned, dated 17th January, was received the day after its date, and has been considered with the most respectful attention.

In that memorial, the undersigned, without furnishing cause for reproach, might have limited themselves to a statement of the numerous and well-founded complaints of the nation they represent. They have been induced to extend their observations to other subjects, by that sincere desire to re-establish harmony and mutual confidence between the two republics, which the government of the United States has never ceased to feel and to express. Supposing that those misrepresentations, to which human actions and human sentiments must ever continue to be exposed, might have impressed on the mind of the French government, occupied with the great and interesting events of Europe, the unfounded suspicion of partiality, on the part of America, for the enemies of France, the undersigned cherished the hope, that a complete review of the conduct of their government, accompanied with a candid and thorough investigation of the real principles on which that conduct was founded, by removing prejudices, might restore sentiments which the United States have ever sought, and still seek to preserve.

In taking this review, it was obvious that a minute discussion of every particular fact might incumber the examination with details which previous explanations had rendered unnecessary, and therefore it was confined to those leading measures of which the particular cases were the necessary result. The undersigned, however, declared, and they still declare, that if the government of the United States has given just cause of complaint to that of France, in any case, they are ready to consider and to compensate the injury: that negotiation, the opening of which they have for nearly six months unremittingly solicited and patiently attended, would, if entered upon, demonstrate the sincerity of this declaration.

Still animated by the same spirit which has dictated all their efforts to approach this Republic, still searching to remove unfavorable impressions, by a candid display of truths, and a frank manifestation of the principles which have really governed the United States, and still endeavouring thereby to facilitate the restoration of harmony between two nations, which ought to be the friends of each other; the undersigned will lay before you the result of their reflections on your letter of the 28th Ventose.

Whatever force you may please to allow to their observations, the relative situation of the two Republics, it is hoped, will not fail to convince you that they proceed from the most perfect conviction of their justice. You contend, citizen minister, that the priority of complaint is on the side of France, and that those measures, which have so injured and oppressed the people of the United States, have been produced by the previous conduct of their government.

To this the undersigned will now only observe, that if France can justly complain of any act of the government of the United States, whether that act be prior or subsequent to the wrongs received by that government, a disposition and a wish to do in the case what justice and friendship may require, is openly avowed, and will continue to be manifested.

Your complaints against the United States may be classed under three heads.

- 1st. The inexecution of their Treaties with France.
- 2dly. The treaty of Amity, Commerce and Navigation formed with Great Britain.
- 3dly. The conduct of their Government since that Treaty.

If the undersigned shall be disappointed in their hope to convince you, that on no one of these points can their government be justly inculpated, yet they persuade themselves that the demonstration of the good faith and upright intention, with which it has ever acted, will be complete and satisfactory. This being proved; and a tender of compensation for any unintentional wrong being made, a base for accommodation is offered, which they must yet hope will be acceptable to France.

1st. The inexecution of the treaties between the United States and France. Under this head, you complain, first—That from the commencement of the war, the American tribunals have, in effect, pretended to the right of taking cognizance of the validity of prizes brought into the ports of the United States.

2dly. That against the textual sense of the treaty, the government has permitted the ships of the enemy to come to in their ports, after having captured property or vessels belonging to French citizens.

3dly. That it has ordered the arrest of a national corvette, anchored in the port of Philadelphia, and that the arrestation has extended to the Captain Commandant.

4thly. The refusal to provide the means to execute the Consular Convention.

These complaints shall be considered in the order in which they are made.

1st. From the commencement of the war, the American tribunals have, in effect, pretended to the right of taking cognizance of the validity of prizes, brought into the ports of the United States by French cruizers.

You have not been pleased to state a case, in which this right has been asserted, and the undersigned are persuaded that no such case exists.

Far from asserting it, the government of America has expressly disclaimed it. Mr. Jefferson, the then Secretary of State, in his letter to Mr. Morris of the 16th of August, 1793, which letter was laid before the French government, declares, "that the United States do not pretend any right to try the validity of captures made on the *high seas* by France, or any other nation, on its enemies.

"These questions belong of common usage, to the sovereign of the captor, and whenever it is necessary to determine them, resort must be had to his courts. This is the case provided for in the 17th article of the treaty, which says, that such prizes shall not be arrested, nor cognizance taken of the validity thereof; a stipulation much insisted on by Mr. Genet and the consuls, and which we never thought of infringing or questioning."

Mr. Randolph, the successor of Mr. Jefferson, in his letter to Mr. Fauchet, of the 29th May, 1795, says, "As to prizes made by legal cruizers on the *high seas*, it never was the intention of the President to interpose, he having abstained (as the 17th article of our treaty of commerce imports) from examining into their lawfulness."

Mr. Monroe, in his letter to your predecessor, of the 15th March, 1796, says, "You will observe, I admit the principle, if a prize was taken upon the high seas, and by a privateer fitted out within the Republic or its dominions, that in such case, our courts have no right to take cognizance of its validity. But is any case of this kind alledged? I presume none is or can be shewn."

But the United States have deemed it an indispensable duty to prevent, so far as they could prevent, the practice of hostility against nations with whom they were at peace, within their own limits, or by privateers fitted out in their own ports.

For the reasoning of their government in support of this decision, the undersigned will again refer to the letter of Mr. Jefferson already quoted.

"Another doctrine advanced by Mr. Genet is, that our courts can take no cognizance of questions, whether vessels, held by them as prizes, are lawful prizes or not; that this jurisdiction belongs exclusively to their consulates here, which have been lately erected by the National Assembly into complete courts of admiralty.

"Let us consider first, what is the extent of the jurisdiction which the consulates of France may rightfully exercise here. Every nation has, of natural right, entirely and exclusively, all the jurisdiction which may be rightfully exercised in the territory it occupies. If it cedes any portion of that jurisdiction to judges appointed by another nation, the limits of their power must depend upon the instrument of cession. The United States and France have, by their consular convention, given mutually, to their consuls jurisdiction in certain cases especially enumerated. But that convention gives to neither the power of establishing complete courts of admiralty, within the territory of the other, nor even of deciding the particular question of prize or not prize. The consulates of France then cannot take judicial cognizance of those questions here.

"Of this opinion Mr. Genet was when he wrote his letter of May 27th, wherein he promises to correct the error of the consul at Charleston, of whom in my letter of the 15th I had complained as arrogating to himself that jurisdiction; though in his subsequent letters he has thought proper to embark in the errors of his consuls.

"The real question is, whether the United States have not a right to protect vessels within their waters, and on their coasts? The *Grange* was taken within the Delaware, between the shores of the Jerseys and of the Delaware state, and several miles above its mouth. The seizing of her was a flagrant violation of the jurisdiction of the United States. Mr. Genet, however, instead of apologizing, takes great merit, in his letters, for giving her up. The *William* is said to have been taken within two miles of the shores of the United States. When the admiralty declined cognizance of the case, she was delivered to the French consul, according to my letter of June 25th, to be kept until the Executive of the United States should examine into the case, and Mr. Genet was desired, by my letter of June 29th, to have them furnished with the evidence on behalf of the captors, as to the place of capture; yet to this day it has never been done. The brig *Fanny* was alledged to be taken within five miles from our shore: the *Catharine* within two miles and an half. It is an essential attribute of the jurisdiction of every country to preserve peace and punish acts in breach of it, and to restore property taken by force within its limits. Were the armed vessel of any nation to cut away one of our own from the wharves of Philadelphia, and to chuse to call it a prize, would this exclude us from the right of redressing the wrong? Were it the vessel of another nation, are we not equally bound to protect it while within our limits? Were it seized in any other waters or on the shores of the United States, the right of redressing it is still the same: and humbled indeed would be our condition were we obliged to depend for that on the will of a foreign consul, or on any negotiation with diplomatic agents. Accordingly this right of protection within its waters, and to a reasonable distance on its coasts, has been acknowledged by every nation and denied to none; and if the property seized be yet within their power, it is their right and duty to redress the wrong themselves.

"France herself has asserted the right in herself, and recognized it in us, in the 6th article of our treaty, where we mutually stipulate, that we will *by all the means in our power* (not by negotiation) protect and defend each other's vessels and effects in our ports or roads, or on the seas near our countries, and recover and restore the same to the right owners. The United Netherlands, Prussia and Sweden, have recognized it also in treaties with us; and indeed it is a standing formule inserted in almost all the treaties of all nations, and proving the principle to be acknowledged by all nations."

In the letter of Mr. Randolph to Mr. Fauchet, already cited, that gentleman resumes this subject, and Mr. Fauchet in answer says: "The Admiralty Courts have always ceded to the entreaties of our enemies for their intervention in prize causes; in truth, frequently and almost constantly, by

using the double plea of which you spoke to me, that is to say, by arguing either of seizure within the jurisdiction line of the United States, or of armament or augmentation of armament of the capturing vessels, in their ports. On this subject, Sir, you request me to specify a circumstance where a prize was arrested, which did not come under that denomination, and you take the trouble to establish, that they have a right to intervene in every case that can be brought under those heads. In the first place, Sir, I never have, at least to my recollection, contested the right of your courts, or of the government, to interfere in matters of the nature of those you mention."

It would seem to be incontestible, that the principle asserted by the United States, which indeed is an unquestionable principle, has been admitted in its utmost latitude by France. It is believed that in the execution of this principle, the government and tribunals have only been guided by a sense of duty and the obligations of justice. If in any case that can be selected, wrong has unintentionally been committed, that wrong has grown inevitably out of the situation of the United States, and of the conduct of persons they have been unable to controul, and will with readiness be corrected.

2dly. That against the textual sense of the treaty, the government has permitted the ships of the enemy to come to in their ports, after having captured property or vessels belonging to French citizens.

It is to be regretted, that you have not been pleased to state some particular case, if the case be founded on a fact, which has manifested this permission: or if it be founded in principle, the precise difference between the construction given by the President of the United States to the article of the treaty of the 6th of February, 1778, relative to this subject, and that for which you may contend. For the want of such a guide, the undersigned may discuss unnecessary points, without giving you complete satisfaction on that which in your mind may constitute the real difficulty.

The 17th article is in these words: "It shall be lawful for the ships of war of either party and privateers freely to carry whithersoever they please the ships and goods taken from their enemies, without being obliged to pay any duty to the officers of the admiralty or other judges; nor shall such prizes be arrested or seized when they come to or enter the ports of either party, nor shall the searchers, or other officers of those places, search the same, or make examination concerning the lawfulness of such prizes; but they may hoist sail at any time and depart, and carry their prizes to the places expressed in their commissions, which the commanders of such ships of war shall be obliged to show: on the contrary, no shelter or refuge shall be given in their ports to such as shall have made prize of the subjects, people or property of either of the parties; but if such shall come in, being forced by stress of weather or the dangers of the sea, all proper means shall be vigorously used that they go out and retire from thence as soon as possible."—Do you contend, citizen minister, that this article ought to be rigidly construed according to its letter? If you do, it becomes necessary to ascertain what are the disabilities to which its letter really subjects the vessels belonging to the enemies of France. They are, 1st. That no shelter or refuge shall be given in the ports of the United States to the ships of war or privateers belonging to the enemy, *which shall have made prize* of the subjects, people or property of France.—2dly. That if such ships of war or privateers shall come in, being forced by stress of weather or the danger of the seas, all proper means shall be vigorously used that they go out and retire from thence as soon as possible.

The letter of the article does not exclude generally the ships of war belonging to the enemy, but those only *which have made prize* of the subjects, people or property of France. That the vessel shall have made a prize is a part and an essential part of the description. Whether the vessel be or be not within this description is a fact, the ascertainment of which must precede the measures to be taken in consequence of that fact. When the fact shall have been ascertained, the letter of the article denies refuge or shelter to the

ship of war or privateer, but not to the prize which may have been made. You well know, citizen minister, that if the letter of the article is to be set up against its spirit, when the former is most favourable to the views of France, the letter must still be adhered to, though it should counteract those views. The situation of the United States bound them to observe, between the belligerent powers, an exact neutrality, in all cases where their previous treaties had not stipulated advantages or imposed disabilities.

They could not refuse to one belligerent power those rights of ordinary hospitality which were enjoyed by others, which the common usages of nations permit, and which were forbidden by no particular treaty. Such refusal would have been manifestly partial, and a plain departure from that neutral position in which the United States found themselves, and which good faith, integrity and their best interests impelled them religiously to maintain.—Thus circumstanced it was the duty of the government to give its true construction to a treaty granting advantages to one of the belligerent powers, and imposing disabilities on another. In searching for this true construction, its best judgment ought to be exercised, and the dictates of that judgment ought to be obeyed. The United States have done so. They have refused shelter in their ports to the prizes made on the French Republic, or to the ships of war belonging to the enemy and accompanying such prizes.

They have permitted ships of war, not bringing prizes with them, to remain in their ports, without instituting tribunals to enquire whether such ships have at any time captured French citizens or French property. The reasoning on which this decision was founded, and which appears to the undersigned to have been conclusive, will not now be repeated. It has been detailed in several letters from the Secretary of State of the United States to the Minister of France in Philadelphia.—The undersigned will only observe that the construction supposed to be just, and for that reason actually put upon the article, is believed to be more favourable than the literal construction to the interests of France.

Ships of war which have made prizes on this Republic, if they enter the ports of the United States without such prizes, ought indeed, under the letter of the article, to be ordered to depart as soon as the fact can have been ascertained; but the prizes themselves are permitted to remain in safety. By the actual construction, a ship of war entering without a prize, is permitted to remain, but all shelter is refused to a ship of war which is accompanied by a prize, and also to the prize itself. It would seldom happen that a ship of war not driven in by stress of weather, or the danger of the seas, would wish to continue in port longer than the time which would unavoidably be consumed in ascertaining the fact of her having made a prize, but it must often happen that a prize now excluded from the ports of the United States, would find shelter in them if the literal construction of the treaty should be adopted.

This exposition given by the United States to this article was made known in 1793—France has never signified a wish that the literal construction throughout should be pursued: This strengthens the opinion entertained by the undersigned, that the rule on this subject, so early established by the American government, is considered by the Republic as more favourable to its interests, than a rule conforming entirely to the letter of the article.

3dly. “The government of the United States has ordered the arrest of a national corvette* anchored in the port of Philadelphia, and the arrestation has been extended to the Captain Commandant.”

The undersigned beg leave to state the case which is the foundation of this complaint. In the statement itself they trust will be found a complete justification of the conduct of the United States.

The *Cassius*, under the name of “*les Jumeaux*,” was fitted and armed for a vessel of war in the port of Philadelphia, in violation of a law of the

* *Le Cassius*.

United States. In December, 1794, having escaped from the port to descend the river, orders were given to the militia of the State of Delaware to intercept her. The attempt was made and failed. The crew of *les Jumeaux*, which was unexpectedly found to be very numerous, resisted the officers who went on board, manned their cannon and brought them to bear on the cutter in which the militia, about forty in number, were embarked. Their force being inadequate to the enterprize, they retired with an intention to return the next day with a reinforcement. They did so, but *les Jumeaux* had sailed and gone to sea. The Agent, Mr. Guenet, by whom *les Jumeaux* had been fitted out, was tried at the circuit court in Philadelphia, convicted of the offence, and received sentence of fine and imprisonment.

Les Jumeaux proceeded to St. Domingo; Samuel B. Davis, a citizen of the United States, there took the command of her, with a commission from the French government. Davis probably sailed from Philadelphia in *les Jumeaux*, for the purpose of finally taking the command of her. Her name was now changed to "*le Cassius*," and on a cruise she took a schooner called the *William Lindsay*, belonging to Messrs. Yard and Ketland of Philadelphia, Mr. Ketland having purchased an interest in her after her sailing. The schooner and her cargo were condemned as prize at St. Domingo. In August, 1795, Captain Davis, commanding the *Cassius*, came with her to Philadelphia; she was immediately known. Mr. Yard, with a view of obtaining an indemnification for the loss of the schooner and her cargo, libelled the *Cassius* in the District Court, and caused the captain to be arrested. Soon after, the Supreme Court being in session, Captain Davis' counsel applied for and obtained a prohibition to the District Court to stop its proceedings, by which the suits both against him and *le Cassius* were defeated. The prohibition was granted on this principle, That the trial of prizes taken without the jurisdiction of the United States, and carried to places within the jurisdiction of France for adjudication, by French vessels, and all questions incidental to it, belong exclusively to the French tribunals; and consequently that its vessels of war, and their officers, are not liable to process of our courts, predicated upon such capture and subsequent proceeding within the jurisdiction of the French government.

Messrs. Yard and Ketland having failed to obtain indemnification in this mode, procured new process, on the information of Mr. Ketland, to be issued from the circuit court, by which *le Cassius* was attached as a vessel armed and equipped as a ship of war, in the port of Philadelphia, with intent to cruise and commit hostilities against nations with whom the United States were at peace, in violation of the act of Congress prohibiting such armament. Mr. Adet complained that the process was taken out of the circuit court, because, as he alledged, it had no jurisdiction, and that it would be attended with delay, that court sitting but twice a year; whereas the district court, in which it was said the prosecution, if at all permitted, should have been commenced, was always open. Gentlemen of legal knowledge were consulted on the point of jurisdiction in this case, and they were decided in their opinion, that the circuit court had jurisdiction, and exclusively of the district court. The government of the United States had no part in originating this prosecution; and the district attorney, in behalf of the United States, took measures, at each term of the circuit court, to prepare the cause for trial, and on a plea calculated to defeat the prosecution. At length, in October term, 1796, the cause was brought to an hearing. In the course of the argument, the question of jurisdiction presented itself. The court adjourned until next day to consider of it: and the following morning dismissed the suit.

The undersigned may be permitted to ask, whether in a change of situation, placing France precisely in the circumstances of the United States, either the corvette or her captain would have escaped,

4thly. The refusal to provide the means to execute the consular convention of the 14th November, 1788.

As you have not selected the particular parts of this convention supposed to remain unexecuted, the undersigned must necessarily consider the more definite charges heretofore made on the same subject as being adopted by you.

Your predecessor in office, in his letter to Mr. Monroe of the 19th Ventose 4th year (9th March 1796) complains 1st, That the clause granting to French consuls the right of judging exclusively in disputes between Frenchmen, is become illusory for the want of laws giving them the means of having their decisions executed.

2dly. The right of causing mariners who desert to be arrested, is rendered ineffectual, because the judges charged by the laws with issuing the mandates of arrest have lately required the presentation of the original roll of the crew, in contempt of the 5th article admitting in the tribunals of both powers, copies certified by the consul.

It is then understood to be required,

1st. That the officers of the United States should execute the judgments of the consuls:

2dly. That the judges of the United States should issue mandates of arrest against persons charged with being deserters, without a view of the *original* roll of the crew.

It is very justly observed by Mr. Jefferson, in his letter to Mr. Morris which has been already cited, that, "every nation has, of natural right, entirely and exclusively all the jurisdiction which may be rightfully exercised in the territory it occupies. If it cedes any portion of that jurisdiction to judges appointed by another nation, the limits of their power must depend upon the instrument of cession." The parties to the convention profess its object to be, "to define and establish in a reciprocal and permanent manner the functions and privileges of consuls and vice-consuls."

It is to be expected then, as well from the intention of the convention establishing the tribunal, as from the nature of the tribunal itself, which is a foreign court, constituted by a foreign authority, governed by foreign laws, and amenable for its conduct to a foreign government, that no power is to be implied, and that it possesses no capacity, which is not expressly given to it. To ascertain then the precise extent of the stipulation, let the convention itself be considered.

The first point rests exclusively on the 12th article which is in these words, "All differences and suits between the subjects of his most Christian Majesty in the United States, or between the citizens of the United States within the dominions of the most Christian King, and particularly all disputes relative to the wages and terms of engagement of the crews of the respective vessels, and all differences, of whatever nature they may be, which may arise between the privates of the said crews, or between any of them and their captains, or between the captains of different vessels of their nations, shall be determined by the respective consuls and vice consuls, either by a reference to arbitrators, or by a summary judgment, and without costs. No officer of the country civil or military shall interfere therein, or take any part whatever in the matter: and the appeals from the said consular sentences shall be carried before the tribunals of France or of the United States to whom it may appertain to take cognizance thereof."

In this article no engagement is made to furnish the means of executing consular judgments. If therefore the preceding positions be just, there is an end of the question. But other arguments present themselves in support of the construction contended for by the United States. The consular authority in a foreign country is usually either voluntary or enforced by the laws of the nation to which the consuls belong, and which may bind their own citizens or subjects under penalties to be inflicted on their return, or

otherwise. Upon this idea it was sufficient to stipulate a permission of the jurisdiction in exclusion of the courts of the country : on any other idea, it would have been necessary to have stipulated explicitly and perhaps in detail the manner in which its sentences should be executed. To accede to the demands of France would be to erect in a foreign country complete courts of justice with effectual process to compel the appearance of parties and witnesses, and to execute their decisions. And as the transactions in commerce could not in the nature of things be confined to foreigners alone, the citizens of the country must often be necessary witnesses to those transactions, and of course rendered amenable to this foreign jurisdiction in their own country ; whereas the jurisdiction granted by the article, is only of French consuls over French citizens in the United States, and reciprocally of American consuls over the citizens of the United States in France. This would be to extend by implication, the authority of a foreigner over persons not contemplated by the treaty as subject to it. The article declares too, " that no officer of the country, civil or military, shall interfere therein, or take any part in the matter." But sheriffs, marshals and their deputies, or any other persons appointed by and acting under the laws of the country, are " officers of the country," and consequently cannot aid in the execution of consular decisions, because they are expressly forbidden, " to interfere therein or take any part whatever in the matter."

But was it meant that the laws should give consuls the power to appoint such executive officers of their own nation ? Should it be conceded that a person so appointed could not be considered as an officer of that nation by virtue of and according to whose laws he held his office, still we find no such thing in the convention. On the contrary in the case of deserters from vessels, mentioned in the 9th article, whom the consuls are authorized to cause to be arrested, they are expressly directed to apply in writing to the " courts, judges, and officers competent" to make the arrests, meaning the courts, judges and officers of the country where the consuls reside. In addition to this, if power could be given to consuls to appoint officers to execute their decisions, these officers must of course have their fees of compensation to be paid by one or other of the parties. But the article giving the jurisdiction declares that the consular judgments shall be " without costs."

The second complaint is, that the judges of the United States have required the exhibition of the *original* roll of the crew as the testimony which would authorize the issuing of a mandate, to apprehend a French mariner charged as a deserter.—The right to require these mandates is founded entirely on the 9th article of the consular convention.

That declares " That the consuls and vice consuls shall address themselves, to the courts, judges and officers competent, and shall demand the said deserters in writing, proving by an exhibition of the *registers of the vessel or ship's roll*, that those men were part of the said crews ; and on this demand *so proved* (saving however where the contrary is proved) the delivery shall not be refused."

It would be an idle waste of time to attempt to prove to you, citizen minister, that *the register of the vessel or ship's roll*, is not a copy of that paper, or that a copy does not satisfy a law which peremptorily requires the exhibition of the original. Your predecessor has thought proper to refer to the 5th article of that instrument ; but a slight perusal of that article will convince you, citizen minister, that it does not apply to the case. When the judges of the United States determined that the mandate of arrest could not be issued on the exhibition of a " copy of the register of the vessel or ship's roll," they did not so decide for the purpose of giving effect to the system of the government, but because the

treaty was clearly understood by them positively to require the presentation of the original.

The undersigned regret, citizen minister, that your researches concerning the United States have not extended to their courts. You would have perceived and admired their purity. You would have perceived that America may repose herself securely on the integrity of her judges, and your justice would have spared the insinuations concerning them which have closed this part of your letter.

The undersigned will now consider what you have stated with respect to the treaty of amity, commerce and navigation, formed with Great-Britain.

You complain, citizen minister, in very strong terms, of the deception alledged to have been practised with respect to the objects of Mr. Jay's mission to London, and also of the contents of the treaty which that mission produced. You are pleased to observe that it was then said, that Mr. Jay had been sent to London, *only* to negotiate arrangements relative to the depredations committed on the American commerce by the cruizers of Great-Britain.

By whom, citizen minister, was this said? not by the President in his message to the Senate, announcing the nomination of Mr. Jay: nor by the then Secretary of State, in communicating to Mr. Fauchet the subject of that mission. The documents with respect to this assertion have been stated and have been fully commented on. It has been fully demonstrated that the American government did not seize this occasion to practise a-deception so unnecessary, so foreign to its well known character, and which could produce only mischief to itself. As you have in no degree weakened the testimony which is relied on as disproving this allegation, or produced any sort of evidence in support of it, the undersigned cannot but mingle some degree of surprize with the regrets they feel at seeing it repeated, accompanied with the charge of that "dis-simulation," of which all who examine well the conduct of the government of the United States will so readily pronounce it to be incapable. You also criminate the secrecy which attended this negociation. To this complaint, when formerly insisted on, it was answered, that so much of it as was material to this republic was immediately communicated to her minister; and that she had no right to enquire further, or to be dissatisfied that other objects were not disclosed; that it is not the practice of France, nor of any other nation, to communicate to others the particular subjects of negotiation which may be contemplated; and that no nation could be independent, which admitted itself to be accountable to another, for the manner in which it might judge proper to regulate its own concerns, on points in which that other was not interested, or which was bound to give previous intimation of every article, which might be inserted in a treaty, formed on the avowed principle of leaving in full force all pre-existing engagements. This reasoning is answered only by terming it a "sophism," "an insidious subterfuge." May not any reasoning, on any subject, be answered in the same manner? But can such an answer impair its force? Without doubt, citizen minister, the government of the United States, when it informed France that the negotiations of Mr. Jay would not in any respect weaken its engagements to this republic, would have added, that they might eventually extend to a commercial treaty, if it had been

supposed that the omission to give such information could really be considered as a breach of legitimate obligation, or as an evidence of diminished friendship. The information was most probably not given, because it was unusual, and because it could neither be considered as proper, as necessary, or as material. The undersigned trust that the painful and unavailing discussions on this subject, rendered so unpleasant by the manner in which it has been treated, will never again be renewed.

Passing to the treaty itself, you say that the small majority by which it was sanctioned in the two houses of Congress, and the number of respectable voices raised against it in the nation, depose honorably in favor of the opinion which the French government has entertained of it. But you must be sensible, citizen minister, that the criterion by which you ascertain the merits of the instrument in question, is by no means infallible, nor can it warrant the inference you draw from it. In a republic like that of the United States, where no individual fears to utter what his judgment or his passions may dictate, where an unrestrained press conveys alike to the public eye the labors of virtue, and the efforts of particular interests, no subject which agitates and interests the public mind can unite the public voice, or entirely escape public censure. In pursuit of the same objects a difference of opinion will arise in the purest minds, from the different manner in which those objects are viewed; and there are situations in which a variety of passions combine to silence the voice of reason, and to betray the soundest judgments. In such situations, if the merit of an instrument is to be decided, not by itself, but by the approbation or disapprobation it may experience, it would surely be a safer rule to take as a guide the decision of a majority, however small that majority may be, than to follow the minority. A treaty too may be opposed as injurious to the United States, though it should not contain a single clause which could prejudice the interests of France. It ought not to be supposed that a treaty would for that reason be offensive to this republic.

Had you been pleased to state any objections to this instrument drawn from the compact itself, the undersigned would have given to those objections the most serious and respectful consideration. But it is supposed that you adopt, without adding to, the complaints made by your predecessor and by Mr. Adet, when you observe, that you will not repeat what they have said. These complaints have been amply discussed in the memorial the undersigned had the honor to transmit you, bearing date 17th of January. It is believed to have been demonstrated that the stipulations complained of do not in the most remote degree wound the interests of France, affect the pre-existing engagements of the United States, or change their situation in relation to the belligerent powers. Such, incontestably, was and is the opinion of the American government, and in this opinion only would the treaty have been agreed to. As no one of the arguments which have at various times been urged on this subject, on the part of the United States, has ever yet been noticed, the undersigned deem unnecessary any attempt to re-urge or to strengthen them. You say that you will content yourself "with observing summarily, that in this treaty every thing having been provided to turn the neutrality of the United States to the disadvantage of the French Republic, and to the advantage of England; that the federal government having in this act made to Great-Britain concessions the most unheard

of, the most incompatible with the interests of the United States, and the most derogatory from the alliance which existed between the said states and the French Republic, the latter was perfectly free to avail itself of the preservatory means with which it was furnished by the laws of nature and of nations, and by its anterior treaty, for the purpose of parrying the inconveniences of the treaty of London. Such are the reasons which have determined the arrêtés of the Directory of which the United States complain, as well as the conduct of its agents in the antilles." But you have not shewn a single provision, "which turns the neutrality of the United States to the disadvantage of the French Republic and to the advantage of England." You have not shewn a single concession "incompatible with the interests of the United States," or "derogatory from their alliance with France."

It is considered as having been demonstrated, that this treaty leaves the neutrality of the United States, with respect both to France and England, precisely in its former situation, and that it contains no concessions which are either unusual, or derogatory from their alliance with this republic. But if in forming this judgment the American government has deceived itself, still it ought to be remembered that it has ever manifested a readiness to place France on the footing of England, with respect to the articles complained of.

You suppose that the 2nd article of the treaty between France and the United States justifies the arrêtés, of which the latter power complains: But that article only entitles either of the contracting parties to a participation of any particular favor in respect of commerce or navigation, which might thereafter be granted by the other to other nations, on allowing the same compensation, if the concession was conditional. It has never been pretended to extend to pre-existing rights held and exercised under the law of nations, and barely recognized by any subsequent treaty. If this could be insisted on, still it was shewn incontestibly by the undersigned, that the arrêté particularly complained of, so far as it professes to found itself on the treaty with England, greatly transcends that treaty, and in its most noxious article, that requiring a rôle d'équipage, has no relation to it. This all essential circumstance you have not been pleased to notice; and it is with infinite regret the undersigned observe, that the discussions at which you hint are to be limited to the abuses of the principle established by the arrêté, and not extended to the compatibility of the principle itself, with justice, the laws of nations, or existing treaties.

It is well known that such a discussion, if indeed the undersigned could be permitted to enter upon it, would avail but little, since the vast mass of American property captured by the cruizers, and condemned by the courts of France, has been found in vessels not furnished with a rôle d'équipage.

The undersigned have been minute in their attention to every syllable you have uttered on this interesting subject, because it has been often considered as having given cause of just irritation to France, and they are sincerely desirous of probing to the bottom every subject which may have assumed that complexion. Their wish is unaffected, to give to every complaint its real value, in order thus to prepare the way for accommodation, by the relinquishment of such as are not well founded, and the admission of those which have a real existence.

The third head of your complaints relates to the conduct of the government of the United States since their treaty with England.

You observe, that as soon as the treaty in question had been put in execution, the government of the United States seemed to think itself dispensed from the observance of any measures towards this Republic, and you adduce in support of this general observation,

1st. The refusal to permit in the ports of the United States the sale of prizes made by French cruizers.

2ndly. The invectives and calumnies against the French government, its principles and its officers, contained in certain journals and pamphlets published in the United States, &c.

3dly. The speech of the President to Congress in May last.

1st. The government of the United States does not permit the sale in their ports of prizes made upon England by the cruizers of France.

The fact is admitted. To erect it into an offence, it becomes necessary to prove that this measure violates either the engagements or the neutrality of the United States. Neither is attempted. To show that it violates neither, had this been rendered necessary, would by no means have been deemed an arduous task. It will now only briefly be observed, that the 17th article of the treaty of commerce of the 6th of February 1778, which alone relates to this subject, so far from stipulating for the sale of prizes in the ports of either nation, limits itself to a declaration, that the captors shall have liberty to bring them into port, free from duties, arrests and searches, and to depart with them to the places expressed in their commissions, thereby evidently contemplating the then existing regulations of this nation. France has manifested her own opinion on this subject, in her treaty with Great Britain of the 26th of September 1786. The 16th article of that treaty declares, "that it shall not be lawful for foreign cruizers who shall not be the subjects of one or the other crown, and who shall have a commission from any prince, or state, enemies of the one or the other, to arm their vessels in the ports of one or the other of the said two kingdoms, *to sell there what they shall have taken, or to change the same in any manner whatever.*" In a war with England then, France being neutral, the cruizers of the United States are forbidden to sell their prizes in the ports of this Republic. The 17th article of the treaty of February 1778, being reciprocal, France has pronounced her decision, that it does not give her cruizers a right to sell their prizes in the ports of America. If this right had been given by the treaty of February 1778, that between the United States and England could not be construed to impair it. Nor is the prohibition a departure from the neutrality of the United States. A nation to violate its neutrality must manifest a partiality for one of the belligerent powers, must accord favours not stipulated by pre-existing treaties to one, which it refuses to the other. This is not even alledged in the present instance. Far from permitting British cruizers to sell in the United States prizes they have made on the French, they are not even allowed to bring them into port. A candid consideration of this subject will prove that the withdrawal of a favor, the grant of which manifested so strongly the attachments of the United States, far from justifying the resentments which have been expressed in consequence of it, can only be attributed to the solicitude of the American government to render perfectly unexceptionable its obser-

vance of that neutrality which it professes to maintain. It has been shown unequivocally to have been the opinion of the contracting parties, that the treaty of commerce of the 6th of February 1778, did not give to either, being at war, a right to sell its prizes in the ports of the other being at peace. It is not pretended that this is one of the rights accruing, without special stipulation, under the laws and usages of nations.

It is not then a right at all. If granted, it is a voluntary favor. But a voluntary favor essential in the prosecution of the war, if granted by a neutral to one belligerent power, and of necessity refused to the other, affords to that other at least a more plausible pretext for complaint than has been given by any other act of the government of the United States. What, in such a situation, would have been the language of France? Would this Republic permit a neutral nation, not bound thereto by any obligation whatever, to allow in its ports as a voluntary favor the sale of prizes made on French citizens, while the same favor was of necessity denied to the cruizers of France.

It is believed that such an use of neutrality would not be permitted, and the undersigned felicitate themselves and their country that the government they represent has never intentionally given to this republic any cause of dissatisfaction, as serious as this would have been. You will not fail to observe, citizen minister, that this heavy accusation, when analysed, is nothing more than the refusal of a mere favor on the part of the American government, the grant of which might have been dangerous to itself, might have drawn it from that neutral station which it is its duty to observe, and which favor France had previously, in the most explicit terms, declared its determination not to grant under similar circumstances to the United States.

2dly. Your second allegation is, "that the journals known to be indirectly under the controul of the cabinet have redoubled their invectives and calumnies against the Republic, its magistrates and its envoys; and that pamphlets openly paid for by the minister of Great-Britain have re-produced, under every form, those insults and calumnies without having ever drawn the attention of the government to a state of things so scandalous, and which it might have repressed."

The genius of the constitution, and the opinions of the people of the United States, cannot be overruled by those who administer the government. Among those principles deemed sacred in America; among those sacred rights considered as forming the bulwark of their liberty, which the government contemplates with awful reverence, and would approach only with the most cautious circumspection, there is no one of which the importance is more deeply impressed on the public mind than the liberty of the press. That this liberty is often carried to excess, that it has sometimes degenerated into licentiousness, is seen and lamented; but the remedy has not yet been discovered. Perhaps it is an evil inseparable from the good with which it is allied: perhaps it is a shoot which cannot be stripped from the stalk, without wounding vitally the plant from which it is torn. However desirable those measures might be which might correct without enslaving the press, they have never yet been devised in America. No regulations exist which enable the government to suppress whatever calumnies or invectives any individual may chuse to offer to the public eye; or to punish such calumnies and

invectives, otherwise than by a legal prosecution in courts which are alike open to all who consider themselves as injured. Without doubt this abuse of a valuable privilege is matter of peculiar regret when it is extended to the government of a foreign nation. The undersigned are persuaded, it never has been so extended with the approbation of the government of the United States. Discussions respecting the conduct of foreign powers, especially on points respecting the rights and interests of America, are unavoidably made in a nation where public measures are the results of public opinion; and certainly do not furnish cause of reproach; but it is believed that calumny and invective have never been substituted for the manly reasoning of an enlightened and injured people, without giving pain to those who administer the affairs of the Union. Certainly this offence, if it be deemed by France of sufficient magnitude to be worthy of notice, has not been confined to this Republic. It has been still more profusely lavished on its enemies, and has even been bestowed with an unsparing hand on the Federal Government itself. Nothing can be more notorious than the calumnies and invectives, with which the wisest measures and the most virtuous characters of the United States have been pursued and traduced. It is a calamity incident to the nature of liberty, and which can produce no serious evil to France. It is a calamity occasioned neither by the direct nor indirect influence of the American government. In fact that government is believed to exercise no influence over any press. You must be sensible, citizen minister, with how much truth the same complaint might be urged on the part of the United States. You must know well, what degrading and unworthy calumnies against their government, its principles and its officers, have been published to the world by French journalists and in French pamphlets: That government has even been charged with betraying the best interests of the nation, with having put itself under the guidance of—nay more, with having sold itself to a foreign court. But these calumnies, atrocious as they are, have never constituted a subject of complaint against France. Had not other causes, infinitely more serious and weighty, interrupted the harmony of the two Republics, it would still have remained unimpaired, and the mission of the undersigned would never have been rendered necessary.

3dly. You complain of the speech of the President made to Congress in May last. It denounces, you say, the Executive Directory, as searching to propagate anarchy and division in the United States. The constitution of the United States imposes on the President this important duty: "He shall from time to time, give to the Congress information of the state of the union." It having been deemed proper to recall the minister from the United States to this republic, and to replace him by a citizen, the objects of whose mission, as expressed in his letters of credence, were "to maintain that good understanding, which, from the commencement of the alliance, had subsisted between the two nations; and to efface unfavorable impressions, banish suspicions, and to restore that cordiality which was at once the evidence and pledge of a friendly union." The President of the Directory addressed the recalled minister in the following terms: "In presenting to-day to the Executive Directory your letters of recall, you give to Europe a strange spectacle. France, rich in her liberty, surrounded with the train of her victories, strong in the esteem of her allies, will not abase herself by calculating the consequences of the condescensions of the American government to the suggestions of its ancient tyrants. The French Republic hopes, moreover, that the successors of Columbus, Raleigh, and Penn, always proud of their liberty, will never forget that they owe it to France. They

will weigh in their wisdom the magnanimous good will of the French people with the crafty caresses of certain perfidious persons, who meditate to bring them back to their ancient slavery. Assure, Mr. Minister, the good American people, that like them we adore liberty; that they will always have our esteem, and that they will find in the French people that republican generosity, which knows as well how to grant peace as to cause its sovereignty to be respected."

The change of a Minister is an ordinary act for which no government is accountable to another, and which has not heretofore been "a strange spectacle" in France, or in any other part of Europe. It appears to be a measure not of itself calculated to draw on the government making such change, the strictures or the resentments of the nation to which the Minister is deputed. Such an effect, produced by so inadequate a cause, could not fail to command attention, while it excited surprise.

This official speech, addressed by the government of France to that of the United States, through its Minister, charges that government with condescensions to the suggestions of its ancient tyrants, speaks of the crafty caresses of certain perfidious persons who meditate to bring back the successors of Columbus, Raleigh and Penn to their ancient slavery, and desires the minister to assure, not his *government*, but the *good people* of America, that they will always have the esteem of France, and that they will find in the French people, that republican generosity which knows as well how to grant peace as to cause its sovereignty to be respected.

That a minister should carry any assurances from a foreign government to the people of his nation, is as remarkable as the difference between the manner in which his government and his people are addressed. His government are charged with condescension to the suggestions of the ancient tyrants of his country, but the people are considered as loving liberty, and they are to be assured of the perpetual esteem of France. This esteem they are to weigh against the crafty caresses of those perfidious persons who meditate to bring them back to their former slavery.

When this speech, thus addressed directly to the government and people of the United States, in the face of Europe and the world, came to be considered in connexion with other measures; when it came to be considered in connection with the wide spreading devastation to which their commerce was subjected, with the cruel severities practised on their seamen, with the recall of the Minister of France from the United States, and the very extraordinary manner in which that recall was signified by him both to the government and people, with the refusal even to hear the Messenger of Peace, deputed from the United States for the sole purpose of conciliation; it could not fail to make on the American mind a deep and a serious impression. It was considered as a fact too important to be held from the Congress, by that department of the government, which is charged with the duties of maintaining its intercourse with foreign nations, and of making communications to the legislature of the Union. The President, therefore, did communicate it in the following words: "With this conduct of the French government it will be proper to take into view the public audience given to the late Minister of the United States on his taking leave of the Executive Directory. The speech of the President discloses sentiments more alarming than the refusal of a Minister, because more dangerous to our independence and union, and

at the same time studiously marked with indignities towards the government of the United States. It evinces a disposition to separate the people of the United States from the government; to persuade them that they have different affections, principles and interests from those of their fellow-citizens, whom they themselves have chosen to manage their common concerns; and thus to produce divisions fatal to our peace. Such attempts ought to be repelled with a decision which shall convince France and the world, that we are not a degraded people, humiliated under a colonial spirit of fear and sense of inferiority, fitted to be the miserable instruments of foreign influence, and regardless of national honor, character and interest.

“ I should have been happy to have thrown a veil over these transactions, if it had been possible to conceal them; but they have passed on the great theatre of the world, in the face of all Europe and America, and with such circumstances of publicity and solemnity, that they cannot be disguised, and will not soon be forgotten; they have inflicted a wound in the American breast. It is my sincere desire, however, that it may be healed.”

It is hoped that this communication will be viewed in its true light, that it will no longer be considered as a denunciation of the Executive Directory, but as the statement of an all-important fact by one Department of the American government to another, the making of which was enjoined by duties of the highest obligation.

The undersigned have now, Citizen Minister, passed through the complaints you urge against the government of the United States. They have endeavoured to consider those complaints impartially, and to weigh them in the scales of justice and of truth. If any of them be well founded, France herself could not demand more readily, than America would make, reparation for the injury sustained. The President of the United States has said, “ If we have committed errors, and these can be demonstrated, we shall be willing to correct them; if we have done injuries, we shall be willing, on conviction, to redress them.” These dispositions on the part of the government have been felt in all their force by the undersigned, and have constantly regulated their conduct.

The undersigned will not resume, Citizen Minister, the painful task of re-urging the multiplied injuries which have been accumulated on their country, and which have been in some degree detailed in their Memorial of the 17th January last. They cannot, however, decline to remonstrate against a measure which has been announced since that date. The Legislative Councils of the French Republic have decreed that,

1st. The condition of ships, in every thing which concerns their character as neutrals or enemies, shall be determined by their cargo; consequently every vessel found at sea, laden in whole or in part with merchandize coming out of England, or its possessions, shall be declared good prize, whoever may be the proprietors of such commodities or merchandize.

2dly. No foreign vessel, which in the course of its voyage shall have entered into an English port, shall be admitted into any port of the French Republic, but in the case of necessity; in which case such vessel shall be obliged to depart from such port so soon as the cause of entry shall have ceased.

This decree too deeply affects the interests of the United States to re-

main unattended to by their Ministers. They pray you, therefore, Citizen Minister, to receive their respectful representations concerning it.

The object of the decree, is to cut off all direct intercourse between neutrals and Great-Britain or its possessions, and to prevent the acquisition, even by circuitous commerce, of those articles which come from England or its dominions.

The right of one nation to exchange with another the surplus produce of its labour, for those articles which may supply its wants or administer to its comfort, is too essential to have been ever classed among those admitted to be in any degree doubtful. It is a right in ceding which a nation would cede the privilege of regulating its own interests and providing for its own welfare. When any two nations shall chuse to make war on each other, they have never been considered, nor can they be considered as thereby authorizing themselves to impair the essential rights of those who may chuse to remain at peace. Consequently these rights, the free exercise of which is essential to its interests and welfare, must be retained by a neutral power, whatever nations may be involved in a war.

The right of a belligerent to restrain a neutral from assisting his enemy by supplying him with those articles which are defined as contraband, has been universally submitted to ; but to cut off all intercourse between neutrals and an enemy, to declare that any single article which may have come from the possessions of an enemy, whoever may be its owner, shall of itself be sufficient to condemn both vessel and cargo, is to exercise a control over the conduct of neutrals which war can never give, and which is alike incompatible with their dignity and their welfare.

The rights of belligerents are the same. If this might be exercised by one, so might it be exercised by every other. If it might be exercised in the present, so it might be exercised in every future war. This decree is, therefore, on the part of France, the practical assertion of a principle which would destroy all direct or circuitous commerce between belligerent and neutral powers, which would often interrupt the business of a large portion of the world, and withdraw or change the employment of a very considerable portion of the human race.

This is not all. It is the exercise of a power which war is not admitted to give, and which, therefore, may be assumed in peace as well as war.

It essentially affects the internal œconomy of nations, and deranges that course of industry which they have a right to pursue, and on which their prosperity depends.

To acquiesce, therefore, in the existing state of things, under a principle so extensive and so pernicious, is to establish a precedent for national degradation which can never cease to apply, and which will authorize any measures which power may be disposed to practise.

France, therefore, will perceive that neutral governments, whatever may be their dispositions towards this Republic, are impelled by duties of the highest obligation, to remonstrate against a decree, which at the same time invades their interests and their independence, which takes from them the profits of an honest and lawful industry, as well as the inestimable privilege of conducting their own affairs as their own judgments may direct.

It is hoped that the remonstrances of the United States on this subject will derive additional force from their subsisting engagements with France, and from a situation peculiar to themselves.

The twenty-third article of the Treaty of Amity and Commerce of the 6th of February, 1778, is in these words: " It shall be lawful for all and singular the subjects of the Most Christian King, and the citizens, people and inhabitants of the said United States, to sail with their ships, with all manner of liberty and security, no distinction being made who are the proprietors of the merchandizes laden thereon, from any port to the places of those who now are, or hereafter shall be at enmity with the Most Christian King or the United States. It shall likewise be lawful for the subjects and inhabitants aforesaid, to sail with the ships and merchandizes afore-mentioned, and to trade with the same liberty and security from the places, ports and havens of those who are enemies of both or either party, without any opposition or disturbance whatsoever, not only directly from the places of the enemy before-mentioned to neutral places, but also from one place belonging to an enemy, to another place belonging to an enemy, whether they be under the jurisdiction of the same Prince, or under several. And it is hereby stipulated, that free ships shall also give a freedom to goods, and that every thing shall be deemed to be free and exempt which shall be found on board the ships belonging to the subjects of either of the confederates, although the whole lading, or any part thereof, should appertain to the enemies of either; contraband goods being always excepted. It is also agreed, in like manner, that the same liberty be extended to persons who are on board a free ship, with this effect, that although they be enemies to both or either party, they are not to be taken out of that free ship, unless they are soldiers, and in actual service of the enemy."

The two nations contemplating and providing for the case when one may be at war, and the other at peace, solemnly stipulate and pledge themselves to each other, that in such an event the subjects or citizens of the party at peace may freely trade with the enemy of the other, may freely sail with their ships in all manner of security, to and from any port or place belonging to such enemy. Not only goods coming from the hostile territory, but the very goods of the enemy himself may be carried with safety in the vessels of either of the contracting parties.

You will perceive, Citizen Minister, without requiring the undersigned to execute the painful task of drawing the contrast, how openly and entirely the Decree of the Councils opposes itself to the Treaty between France and the United States.

In addition to the hitherto unceded rights of a sovereign and independent nation, in addition to the right stipulated by compact, the undersigned will respectfully submit other considerations growing out of the peculiar situation of the United States, manifesting the particular hardships the decree complained of must impose on them.

In possession of a rich, extensive and unsettled country, the labour of the United States is not yet sufficient for the full cultivation of its soil, and consequently but a very small portion of it can have been applied to manufactures. Articles of the first necessity and comfort are imported in exchange for provisions and for the raw materials which are the growth of the country, and which its inhabitants are accustomed to raise.

It is at any time extremely difficult, nor is it practicable without great loss, to change suddenly the habits of a whole people, and that course of industry in which their population and their real interests have engaged them. An agricultural cannot suddenly, and at will, become a ma-

manufacturing people; the United States cannot instantaneously, on the mere passing of a decree, transfer, to the manufacture of articles heretofore imported, such a portion of their labour as will at the same time furnish a market for the surplus commodities, and a supply for the wants of the cultivator of the soil. It is, therefore, scarcely possible for them to surrender their foreign commerce.

Independent of the right they possess in common with others to search for and chuse the best markets, it is believed that the supplies they need could with difficulty, in the actual state of the world, be completely furnished, without the aid of England and its possessions. It is not pretended that France manufactures at present, for foreign consumption, nor do the undersigned suppose that there exists a market where the citizens of the United States can obtain in exchange the articles they need and are accustomed to consume, if those coming out of England and its possessions be entirely excluded. A variety of other considerations, and especially the difficulties individuals must encounter in suddenly breaking old and forming new connexions, in forcing all their commerce into channels not yet well explored, in trading without a sufficient capital to countries where they have no credit, combine to render almost impossible an immediate dissolution of commercial intercourse between the United States and Great-Britain.

If then the decree complained of shall be executed on American vessels, it can only increase grievances already but too considerable, and transfer the carriage of English manufactures, for American consumption, from their own to British bottoms, sailing under the protection of a convoy. Instead of wounding England, it will probably aggrandize its marine, by sacrificing the remnant of that of the United States, and by destroying that system of policy by which they have heretofore fought to give their own vessels that portion of their own carrying trade, which would otherwise be enjoyed by British merchants.

You have made some general animadversions on the government of the United States, which the undersigned feel themselves bound briefly to notice.

You have charged that government with giving instructions not in the sincere intention of arriving at pacific results, and yet the undersigned have offered to change those clauses in the treaty of 1778, which have become inconvenient to France, and to repair any injuries which may have been committed.

You have charged that government with omitting nothing to prolong and augment the misunderstanding between the two Republics; but does not the fact, that the undersigned are now in Paris, furnish persuasive evidence to the contrary?

You have charged it with searching to justify, by deceitful appearances, the prejudices with which it surrounds at pleasure the name of the Republic, and the system of exasperation and separation pursued in this respect with the strangest obstinacy. But has not this Republic, in terms the most cordial, been again and again intreated to enter into a candid investigation of the mutual complaints of the two nations? Have not these entreaties been unnoticed, whilst the Ministers deputed to make them have remained unaccredited?

You have charged it with wishing to seize the first favorable occasion for consummating an intimate union with a power, towards which a

devotion and a partiality are professed which have long constituted the principle of the conduct of the Federal government; but whilst no devotion or partiality has been expressed for any nation except France, have not the United States made, and are they not still making the most extraordinary efforts to restore the broken relations between the two Republics?

In a letter discussing the important interests of two great nations, the undersigned are unwilling to introduce what relates personally to themselves.

This unwished for task has been rendered a duty, by ascribing to them opinions and relations which exist in imagination only, and by adducing those supposed opinions and relations as proofs of an indisposition, on the part of the government which has deputed them, towards that accommodation which has been sought so unremittingly through all those difficulties and impediments with which the pursuit has been embarrassed.

You are pleased to add, that these intentions are so little disguised, "that nothing seems to have been neglected at Philadelphia, to manifest them to every eye. It is probably with this view that it has been judged proper to send to the French Republic, persons whose opinions and relations are too well known to hope from them dispositions sincerely conciliatory."

The opinions and relations of the undersigned are purely American, unmixed with any particle of foreign tint. If they possess a quality on which they pride themselves, it is an attachment to the happiness and welfare of their country; if they could at will select the means of manifesting that attachment, it would be by effecting a sincere and real accommodation between France and the United States, on principles promoting the interests of both, and consistent with the Independence of the latter.

It requires no assurance to convince, that every real American must wish sincerely to extricate his country from the ills it suffers, and from the greater ills with which it is threatened; but all who love liberty, must admit that it does not exist in a nation which cannot exercise the right of maintaining its neutrality. If "opinions and relations," such as these, are incompatible with "dispositions sincerely conciliatory," then indeed has the Federal government chosen unfit instruments for the expression of its pacific disposition.

You contrast the conduct observed by the United States, under analogous circumstances, towards the cabinet of St. James, with that which is observed towards this Republic. You say, that on that occasion, there was a solicitude to send to London, Ministers well known to possess sentiments conformable to the objects of their mission; that the Republic has a right to count upon a similar deference; and that if a like attention has not been observed with respect to it, it is too probable that it must be attributed to the views already indicated.

If, unfortunately, the cases shall exhibit a contrast, it is not to be found in the characters the United States have thought proper to employ, or in the conduct of their government, otherwise than by the superior attention manifested towards this Republic, and never shewn to any other nation, in deputing to it, with ample powers, three Envoys Extraordinary and Ministers Plenipotentiary from the three great divisions

of the United States. The Ministers sent to the Cabinet of St. James greatly deserved the confidence of their country; but they did not possess sentiments more conformable to the objects of their mission than those deputed to this Republic. They did not wish more ardently to effect reconciliation; nor is it believed that any persons who could have been deputed to that Cabinet, would have submitted to greater sacrifices in order to obtain it. Had their application for compensation for past injuries, and security against their future commission, been only met by requisitions, a compliance with which would involve their nation in ills of which war perhaps might not be the most considerable; had all attempts to remove unfavorable impressions failed, and all offers to make explanations been rejected; can it be believed, that other Ministers (the first having been ordered out of the nation) would have waited six months unaccredited, soliciting permission to display the upright principles on which their government had acted, and the amicable sentiments by which it was animated?

The undersigned are induced, Citizen Minister, to pray your attention to these plain truths, from a conviction that they manifest unequivocally the friendly temper of the Federal government, and the extreme reluctance with which the hope of an accommodation with France would be relinquished.

The undersigned observe, with infinite regret, that the disposition manifested to treat with the Minister who might be selected by this government, is not accompanied with any assurances of receding from those demands of money, heretofore made the considerations on which alone a cessation of hostility on American commerce could be obtained, to which the undersigned have not the power to accede, with which the United States would find it extremely difficult to comply, and a compliance with which would violate that faith pledged for the observance of neutrality, and would involve them in a disastrous war with which they have no concern. Nor do you answer to the applications, which have been made for compensation to the citizens of the United States for property which shall be proved to have been taken contrary to the law of nations and existing treaties, otherwise than that you are willing to discuss cases where there has been a departure from certain principles, which principles, in fact, involve almost every case.

You have signified, Citizen Minister, that the Executive Directory is disposed to treat with one of the Envoys, and you hope that this overture will not be attended, on the part of the undersigned, with any serious difficulty. Every proposition of the Executive Directory is considered with the most minute and respectful attention.

The result of a deliberation on this point is, that no one of the undersigned is authorized to take upon himself a negotiation evidently entrusted by the tenor of their powers and instructions to the whole: Nor are there any two of them who can propose to withdraw themselves from the task committed to them by their government, while there remains a possibility of performing it.

It is hoped that the prejudices, said to have been conceived against the Ministers of the United States, will be dissipated by the truths they have stated.

If in this hope they shall be disappointed, and it should be the will of the Directory to order passports for the whole or any number of them,

you will please to accompany such passports with letters of safe conduct, which will entirely protect from the cruizers of France, the vessels in which they may respectively sail, and give to their persons, suite and property, that perfect security to which the laws and usages of nations entitle them.

They pray you, Citizen Minister, to receive the renewal of their assurances of profound respect and consideration.

(Signed)

CHARLES COTESWORTH PINCKNEY,
JOHN MARSHALL,
E. GERRY.

A true copy.

HENRY M. RUTLEDGE, *Secretary.*

[*French Original of M. TALLEYRAND's Letter to the
Envoys.*]

*Le Ministre des Relations Exterieures de la République Française, à Messieurs
CHARLES COTESWORTH PINCKNEY, J. MARSHALL, et E. GERRY.*

LE soussigné Ministre des Relations Exterieures de la République Française, a mis sous les yeux du Directoire Executif, le Memoire que les Commissaires et Envoyés Extraordinaires des Etats Unis de l'Amerique lui ont fait parvenir sous la date du 28 Nivôse dernier, et c'est en execution des intentions du Directoire, qui desire convaincre les Etats Unis des veritables dispositions qui l'animent à leur egard, que le soussigné communique aux Commissaires et Envoyés Extraordinaires les observations suivantes.

La premiere chose que a dû frapper dans le Memoire des Commissaires et Envoyés Extraordinaires, c'est la methode qu'ils ont jugé à-propos de suivre dans l'exposition et dans la discussion des points qui sont en contestation entre les deux Etats. Le Directoire Executif, animé des dispositions le plus conciliantes, et pénétré des intérêts qui doivent rapprocher les deux nations, autant qu'empressé de concourir au voeu bien connu des deux peuples pour le maintien d'une intimité parfaite, avait lieu d'attendre que les Envoyés apporteraient, au nom de leur Gouvernement, des dispositions entierement analogues et un esprit préparé d'avance par les mêmes vues et par les mêmes desirs. Quel a dû être, d'après cela, l'étonnement du Directoire Executif, quand le soussigné lui a rendu compte d'un Memoire, dans lequel les Commissaires et Envoyés Extraordinaires, en renversant l'ordre connu des faits, se sont attachés à passer, en quelque sorte, sous silence, les justes motifs de plainte du Gouvernement Française, et a déguiser la véritable cause de la mésintelligence qui se prolonge entre les deux Républiques ! En sorte qu'il paraîtrait, d'après cet exposé, aussi partial, qu'infidèle, que la République Française n'a aucun grief réel à faire valoir, aucune reparation legitime à exiger ; tandis que les Etats Unis seroient les seuls admissibles à se plaindre, les seuls autorisés à réclamer des satisfactions.

Les intentions, qui ont fait préférer cette marche à toute autre, n'ont point échappé au Directoire Exécutif ; et, c'est autant par un juste sentiment de la dignité de la République dont les intérêts lui sont confiés, que pour se prémunir éventuellement contre les vues qu'on pourrait se proposer par une semblable conduite, qu'il a chargé le soussigné de faire disparaître ces vaines apparences, qui ne peuvent en effet subsister à l'instant que les faits auront été rétablis, et que les véritables intentions du Directoire auront été solennellement constatées, en opposition avec celles qu'on ne pourrait lui attribuer que gratuitement et en se prévalant de son silence.

Une vérité incontestable, et qui se trouve entièrement écarté dans le Mémoire des Commissaires et Envoyés Extraordinaires, c'est que l'antériorité des griefs et des plaintes appartient à la République Française ; que ces plaintes et ces griefs étaient aussi réels que nombreux, bien avant que les Etats Unis eussent la moindre réclamation fondée à élever et par conséquent avant que tous les faits sur lesquels les Envoyés appuient avec tant de détails, eussent existé.

Une autre vérité non moins incontestable, c'est que tous les griefs que présentent les Commissaires et Envoyés Extraordinaires, faut des exceptions que le soussigné était prêt à discuter, sont une conséquence nécessaire des mesures que la conduite antérieure des Etats Unis avait justifiées de la part de la République Française, et que ses traités avec les dits Etats Unis autorisaient dans certains cas, qu'il dépendait du Gouvernement général de l'Union de faire ou de ne pas faire exister.

Il serait hors de propos d'entrer dans l'énumération des plaintes que le Gouvernement Française avait lieu d'élever contre le Gouvernement Fédéral, depuis le commencement de la guerre suscitée à la République Française par une puissance jaloux de sa prospérité et de sa régénération. Ces détails sont consignés dans les offices nombreux passés à Philadelphie par les Ministres de la République, et ils ont été récapitulés par le prédécesseur du soussigné, dans une note, adressée sous la date du 19^{me} Ventôse, an 4^{me}. au Ministre Plénipotentiaire des Etats Unis à Paris, et exposés très en détail dans l'office passé à Philadelphie par le Citoyen Adet, le 25 Brumaire, de l'an 5^{me}. On se plaignait dans la note ci dessus de l'inexécution des traités conclus en 1778, dans les seules clauses où la France eut stipulé quelques avantages en retour des efforts qu'elle s'était engagée à faire pour l'utilité commune ; et l'on y réclamait contre des insultes faites à la dignité de la République Française.

Dès le commencement de la guerre en effet les tribunaux Américains ont prétendu au droit de prendre connaissance de la validité des prises, menées dans les ports des Etats Unis par des croiseurs Français. Il est résulté de cette prétention contraire à la lettre du traité de commerce de 1778, que les propriétés des citoyens de la République ont été injustement détenues, et que l'on a totalement découragé la course Française, dans les mers de l'Amérique, contre un ennemi qui en faisait revivre les lois de plus barbare, pour détruire et insulter le commerce Américain sous les yeux mêmes du Gouvernement Fédéral.

On ne se bornait pas à favoriser les ennemis de la République Française dans un point aussi essentiel, point sur lequel il pouvait à la vérité survenir quelques abus, mais que le Gouvernement Français se montrait disposé à prévenir ; on allait encore jusqu'à permettre aux vaisseaux ennemis contra le sens textuel du traité ci-dessus, relâcher dans les ports

des Etats Unis après avoir capturé des propriétés ou des batimens appartenans à des citoyens Français. Bientôt après on arrêta par ordre du gouvernement une corvette nationale mouillée dans le port de Philadelphie,* et cette arrestation s'étendit ensuite jusqu' au capitaine commandant. Les tribunaux Americains se faquirent de même de la personne de l'Ex-Gouverneur de la Guadeloupe, pour faits de son administration, et il a fallu que le Directoire Exécutif menaçât d' user de représailles pour faire prendre à cette affaire le cours que le droit des gens lui assignait.

Pendant tout l'espace de tems qu'on vient de parcourir, le gouvernement Français fit des vains efforts pour déterminer les gouvernement des Etats Unis à procurer aux agens de la République les moyens legaux de faire exécuter les clauses de la convention consulaire de 1788, qui accordaient à notre navigation et à notre commerce des privilèges dont le principe était consacré par les traités de 1778 ; et jamais on ne peut obtenir à cet égard que des renvois infructueux aux tribunaux. En général, toutes les matieres qui, avec des intentions sincerement conciliantes, auraient pu se terminer par voie de négociation étaient habituellement déferées aux autorités judiciaires : et celles-ci, soit qu'elles fussent ou non soumises à une influence secrete, privaient, en dernière analyse, la République des droits fondés sur les traités, ou bien en modifiaient l'exercice selon qu'il convenait au système du gouvernement.

Tel était l'état véritable des choses au mois d'Août 1795, époque où la ratification d'un traité d'amitié, de navigation et de commerce, signé à Londres dans le mois de Novembre précédent, entre les Etats Unis et la Grande Bretagne vint mettre le comble aux griefs de la République.

Quelle avait été jusques là la conduite du gouvernement Français envers les Etats Unis ? Le soussigné, pour en faire voir le contraste avec celle des dits Etats, se contentera de rapeller des faites qui ne peuvent toutesfois avoir été oubliés.

Occupée des soins les plus pressans en Europe, la République n'avait porté ses regards sur les Etats Unis que pour leur donner constamment des preuves nouvelles de l'amitié et de l'intérêt les plus sincères, et elle laissait à ses agens à discuter à l'amiable avec le gouvernement fédéral les contestations dont on vient de tracer une esquisse, et qui, si elles eussent été traitées de part et d'autre avec un véritable esprit de conciliation, n'auraient pu alterer la bonne intelligence au point où elle l'est en ce moment. La République était à peine constituée qu'on envoya un Ministre à Philadelphie, dont la première démarche fut de declarer aux Etats Unis, qu'on ne les presserait point d'exécuter les clauses defensives du traité d'alliance, quoique les circonstances représentassent de la manière la moins équivoque, le *casus fœderis*. Loin d'apprécier cette conduite, le gouvernement Americain la reçut comme la reconnaissance d'un droit, et c'est dans cet esprit encore que les Commissaires et Envoyés Extraordinaires ont abordé cette question au commencement de leur Memoire. Le Ministre de la République à Philadelphie, ayant donné de l'inquietude au gouvernement Americain, fut rappelé avec empressement et même avec des circonstances extrêmement rigoureuses. Son successeur porta aux Etats Unis toutes les reparations desirables ainsi que les declarations les plus amicales et les plus sincere. Rien n'égale l'esprit de conciliation, ou plutôt de condescendance, dans lequel ses

* Arrestation du *Cassius*, Août 1795.

instructions étaient rédigées relativement à tous les points qui avaient causé quelques inquiétudes au gouvernement Fédéral. Le Cit. Adet renforça encore, au nom de la Convention Nationale, ces expressions de bienveillance; et cette assemblée elle-même accueillit, avec l'effusion d'une confiance et d'une sécurité sans bornes, le nouveau Ministre que le Président des Etats Unis envoya auprès d'elle, avec l'intention apparente de correspondre sincèrement aux dispositions que la République n'avait cessé de professer.

Ce qui doit paraître incroyable, c'est que la République et son alliance étaient sacrifiées au moment où elle redoublait ainsi d'égards pour son alliée, et que les démonstrations correspondantes du Gouvernement Fédéral n'avaient pour but que de la maintenir, ainsi que son Gouvernement, dans une fausse sécurité. Et cependant il est connu aujourd'hui que c'est à cette même époque que M. Jay, qui avait été Envoyé à Londres, seulement disait-on alors, pour négocier des arrangements relatifs aux déprédations exercées sur le commerce Américain, par les croiseurs de la Grande Bretagne, signait un traité d'amitié, de navigation et de commerce, dont à Paris et à Philadelphie on a tenu la négociation et la signature dans le plus grand secret. Ce traité ne fut avoué à notre Ministre Plénipotentiaire, qu'à la dernière extrémité, et il ne lui fut communiqué que pour la forme, et après qu'il eut reçu la ratification du Sénat. Lorsque les agens de la République se sont plaints de cette conduite mystérieuse, on a répondu en invoquant l'indépendance des Etats Unis, solennellement consacrée dans les traités de 1778—manière étrange de combattre un grief dont la dissimulation à laquelle on a recours démontre la réalité,—subterfuge insidieux, qui substitue au vrai point de la question, un principe général, que la République ne pouvait pas être soupçonnée de contester, et qui détruit à l'aide d'un sophisme, cette confiance intime, qui doit exister entre deux alliées, et qui surtout devait exister entre la République Française et les Etats Unis.

S'il est difficile de trouver dans cette conduite celle qu'on doit attendre d'un ami, que doit on penser du traité même, et de ses clauses? Ce traité est aujourd'hui connu de toute l'Europe; et la faible majorité à laquelle il a passé dans les deux chambres, ainsi que la multitude des vœux imposans qui se sont prononcés dans la nation contre un tel acte, déposent honorablement en faveur de l'opinion qu'en a portée le Gouvernement Français. Le soussigné ne répètera point à l'égard de ce traité, ce que son prédécesseur en a dit dans sa note du 19 Ventôse précitée, et dans celle 19 Messidor suivant, et ce qui le Ministre Plénipotentiaire de la République à Philadelphie a exposé très au long dans son office du 25 Brumaire. Il se contentera d'observer sommairement, que dans ce traité tout ayant été prévue, pour faire tourner la neutralité des Etats Unis au désavantage de la République Française et à l'avantage de l'Angleterre; que le Gouvernement Fédéral ayant fait, dans cet acte, à la Grande Bretagne, les concessions les plus inouïes, les plus incompatibles avec les intérêts des Etats Unis, les plus dérogoires à l'alliance qui existait, entre les dits Etats et la République Française, celle-ci a été parfaitement libre, de se prevaloir pour parer au inconveniens du traité de Londres, des moyens conservatoires que lui fournissaient le droit naturel, le droit des gens, et les traités antérieurs.

Tels sont les raisons qui ont déterminé les arrêtés du Directoire dont se plaignent les Etats-Unis, ainsi que la conduite de ses agens aux An-

tilles. Toutes ces mesures ont pour principe l'article 2 du Traité de 1778, qui veut qu'en matière de Navigation et de Commerce la France soit toujours à l'égard des Etats Unis, sur la pied de la nation la plus favorisée. On ne peut s'en prendre au Directoire Executif, si de l'exécution de cette clause eventuelle, il est résulté quelques inconveniens pour le pavillon Americain. Quant aux actes abusifs qui pouvaient sortir de ce principe, le soussigné répète encore qu'il était prêt à les discuter de la manière la plus amicale.

De cet exposé fidel des faits, qui ont progressivement amené entre les deux Etats la mesintelligence actuelle, il résulte comme l'a dit le soussigné, en commençant cette reponse, que l'antériorité des griefs appartient à la République Française, et que celles de ses mesures qui ont pu motiver les plaints des Etats Unis, sont, à quelques exceptions près la conséquence naturelle d'un état de choses qu'il a dépendu d'eux, de faire ou de ne pas faire exister.

Le soussigné en terminant au Traité de Londres, l'exposition des griefs de la République, ne remplirait qu'imparialement sa tâche, et il est de son devoir de porter plus loin ses regards. Dès qu'une fois le Traité, dont il s'agit, eut été mis à exécution, le Gouvernement des Etats Unis sembla se croire dispensé de garder aucune mesure envers la République, malgré l'assurance réitérée qu'on avait donné à ses ministres, que le traité ne changerait rien à l'état préexistant de la neutralité des Etats Unis, on notifia dans le courant de l'année 1796, aux croiseurs Français, qu'ils ne pouvaient plus comme jusqu'alors, cela s'était pratiqué, être admis à vendre leurs prises dans les ports des Etats Unis. Cette décision fut rendue par la cour fédéral de justice, et motivée sur le traité conclu entre les Etats Unis et la Grande Bretagne.

Les journaux, connus pour être sous le contrôle indirect du cabinet, ont depuis le traité redoublé d'invectives, et des calomnies, contre la République, et contre ses principes, ses Magistrats et ses Envoyés; des pamphlets, ouvertement soudoyés par le Ministre de la Grand Bretagne, ont reproduit sous toutes les formes ces insultes et ses calomnies; sans que jamais un état de choses aussi scandaleux, ait attiré l'attention du Gouvernement, qui pourrait le reprimer. Au contraire le Gouvernement lui même s'est attaché dans ses actes publics à encourager ce scandale. Le Directoire Executif s'est vu dénoncé dans une discours prononcé par le President, dans le cours du mois de Mai dernier (V. S.) comme cherchant à propager l'anarchie, et la division dans les Etats Unis. Les nouveaux alliés qui la République s'est faits, et qui sont les mêmes qui contribuerent à l'indépendance des Americains, ont été également insultés, dans des correspondances officielles, qui ont été rendues publiques, ou dans les journaux. Enfin on ne peut s'empêcher de reconnaître, dans le ton des discours, et dans celui des publications qu'on vient d'indiquer, une inimitié fourde, qui n'attend que le moment pour éclater.

Les faits ainsi établis, il est facheux d'avoir à penser, que les instructions d'après lesquelles ils ont agi, n'ont point été rédigées, dans l'intention sincère, d'arriver à des résultats pacifiques; puisque loin de partir dans leur Memoire, de quelques principes avoués, et de quelques faits reconnus, les Commissaires ont intervertés et confondu les uns avec les autres, de manière à pourvoir imputer à la République tous les malheurs d'une rupture qu'on semble vouloir amener, par une marche semblable.

Il est évident, que le desir, bien prononcé, de soutenir à tout prix le traité de Londres, qui est le principal grief de la République, d'adhérer à l'esprit dans lequel ce traité a été conçu, et exécuté, et de n'accorder à la République aucun des moyens de réparation, qu'elle a proposés par l'organe du souffigné, ont dictés ces instructions. Il est également évident qu'on n'hésite pas à sacrifier à ces sentimens étranges, ceux qu'il devaient inspirer les traités de 1778, et le souvenir des circonstances au milieu desquelles ils ont été conclus.

Les conséquences éloignées d'une pareille conduite n'ont échappé à l'attention du Directoire. On desirait en n'omettant rien pour prolonger la mésintelligence, et l'augmenter encore, en rejeter sur la République tout l'odieux, aux yeux de l'Amérique et de l'Europe. On cherche à justifier, par des apparences trompeuses, les préventions dont on entoure à plaisir le nom de la République, et le système d'exaspération et d'éloignement, qu'on suit à son égard avec la plus étrange obstination : on veut enfin saisir la première occasion favorable, pour consommer une union intime avec une Puissance envers laquelle on professe un dévouement et une partialité, qui sont depuis long tems le principe de la conduite du gouvernement Fédéral.

Les intentions, que le souffigné attribue ici au gouvernement des Etats Unis, sont si peu déguisées, qu'on semble n'avoir rien négligé à Philadelphie, pour les manifester à tous les yeux. C'est vraisemblablement dans cette vue que l'on a jugé à-propos d'envoyer vers la République Française des personnes, dont les opinions et les relations sont trop connues pour en espérer des dispositions sincèrement conciliantes. Il est pénible pour le souffigné d'être obligé de relever le contraste de cette conduite avec celle qu'on a tenu envers le Cabinet de St. James, dans des circonstances analogues. On s'est empressé alors d'envoyer à Londres, des Ministres bien connus par des sentimens conformes à l'objet de leur mission.

La République aurait dû compter, ce semble, sur une déférence pareille; et si l'on n'a point observé à son égard les mêmes convenances, il est beaucoup trop vraisemblable, qu'il faut l'attribuer aux vues indiquées plus hauts par le souffigné.

Il est impossible de prévoir où peuvent conduire de telles dispositions. Le souffigné n'hésite point à croire que la nation Américaine, comme la nation Française, voit avec regret cet état de choses, et n'en envisage les conséquences, qu'avec douleur. Il estime que le peuple Américain, ne se méprendra, ni sur les préventions qu'on a voulu lui inspirer contre un peuple allié, ni sur les engagements qu'on semble vouloir lui faire contracter au détriment d'une alliance, qui a si puissamment contribué à lui mettre au rang des nations et à l'y maintenir; et qu'il verra dans ces combinaisons nouvelles, les seuls dangers que peuvent courir sa prospérité et sa considération.

Penetré de la justesse de ces réflexions, et de leurs conséquences, le Directoire Exécutif a autorisé le souffigné à s'exprimer avec toute la franchise qui convient à la nation Française. Il est indispensable qu'au nom du Directoire il dissipat ces prestiges, dont on n'a depuis cinq ans cessé d'entourer à Philadelphie les plaintes des Ministres de la République, pour les atténuer, les calomnier, ou les travestir : il était instant enfin qu'en faisant connaître ses sentimens d'une manière non équivoque, il éclaircit toutes les doutes et toutes les fausses interprétations dont ils auraient pu être l'objet.

C'est donc uniquement dans la vue d'applanir la voie des discussions, que le soussigné est entré dans les développemens qui précédent. C'est dans la même vue qu'il déclare aux Commissaires et Envoyés Extraordinaires, que malgré la sorte de prévention qu'on a pu concevoir sur eux, le Directoire Exécutif est disposé à traiter avec celui d'eux trois dont les opinions, présumées plus impartiales, promettent dans le cours des explications, plus de cette confiance reciproque qui est indispensable.

Le soussigné se flatte que cette ouverture ne souffrira de la part des Commissaires et Envoyés Extraordinaires aucune difficulté sérieuse. Il est d'autant plus naturel de l'espérer, que par le teneur de leurs pouvoirs les dits Commissaires et Envoyés Extraordinaires sont autorisés à négocier conjointment ou *séparément*. En sorte que le désir seul de prévenir tout accommodement pourrait élever quelque objection contre cette mesure, qu'on ne fait au reste qu'indiquer aux Commissaires eux mêmes, pour que rien ne porte ici un caractère de défaveur, et qui évidemment n'a d'autre objet que d'assurer à la négociation une heureuse issue, en écartant d'abord tout ce qui pourrait de part et d'autre réveiller dans le cours de cette négociation des sentimens capables de la compromettre.

Le soussigné espère que les Commissaires et Envoyés Extraordinaires le mettront bientôt en état de rendre compte au Directoire Exécutif de leur détermination. Quelque puisse être cette détermination, le soussigné se flatte que les explications, dans lesquelles il est entré, auront mis la question dans son vrai jour, et pourront éventuellement servir à dissiper aux yeux de tous les hommes impartiaux, l'impression défavorable dont on chercherait à atteindre les intentions de la République Française, et son Gouvernement. Il termine par renouveler aux Commissaires et Envoyés Extraordinaires l'assurance de sa considération.

(Signé)

CH. MAU. TALLEYRAND

Paris, 28 Ventôse, an 6.

MESSAGE *from the* PRESIDENT *to* CONGRESS.

*Gentlemen of the Senate, and
Gentlemen of the House of Representatives,*

WHILE I congratulate you, on the arrival of General Marshall, one of our late Envoys Extraordinary, to the French Republic, at a place of safety, where he is justly held in honor, I think it my duty to communicate to you, a letter received by him, from Mr. Gerry, the only one of the three, who has not received his Congé: this letter, together with another, from the Minister of Foreign Relations to him, of the third of April, and his answer of the fourth, will shew the situation in which he remains, his intentions and prospects.

I presume, that before this time, he has received fresh instructions (a copy of which accompanies this Message) to consent to no loans, and therefore the negotiation may be considered at an end.

I will never send another Minister to France, without assurances, that he will be received, respected and honored, as the representative of a great, free, powerful, and independent nation.

JOHN ADAMS.

United States,
June 21st, 1798. }

Paris, 16th April, 1798.

MY DEAR SIR,

THIS I expect you will receive by my colleague General Marshall, who carries with him the last letter of Mr. Talleyrand to the American Envoys, and their answer. On the day when we sent the answer, I received a letter from the Minister, a copy of which and my answer is inclosed. I have not sent these to the Secretary of State, because I have not time to prepare a letter to accompany them. Indeed I expected my passport with my colleagues, but am informed the Directory will not consent to my leaving France: and to bring on an immediate rupture, by adopting this measure contrary to their wishes, would be in my mind unwarrantable. The object of Mr. Talleyrand, you will perceive, was to *resume* our reciprocal communications, and again to discuss the subject of a loan. I thought it best in my answer not merely to object to this, but to every measure that could have a tendency to draw me into a negotiation. I accepted of this mission, my dear Sir, to support your administration, and have brought myself into a predicament*, which you must assist me to extricate myself from, by appointing some

* I allude to my painful residence here as a political cypher.

others to supply the places of myself and colleagues, if a further progress in this business should be found practicable. I have only a moment to add my best respects to your lady, and my assurances of

The most sincere and respectful attachment,

My dear Sir,

Of your's sincerely,

E. GERRY.

The President of the United States.

*Paris, le 14 Germinal, An. 6 de la République
Française, une et indivisible.*

Le Ministre des Relations Extérieures, à Monsieur Gerry, Envoyé Extraordinaire des Etats Unis d'Amérique près de la République Française.

JE suppose, Monsieur, que M. M. Pinckney et Marshall ont jugé utile et convenable d'après les indications que présente la fin de ma note du 28 Ventôse dernier, et l'obstacle que leurs opinions connues ont apporté au rapprochement désiré,—de quitter le territoire de la République : dans cette supposition, j'ai l'honneur de vous indiquer le 5 ou le 7 de cette decade, pour reprendre nos communications reciproques sur les intérêts de la République Française et des Etats Unis d'Amérique.

Recevez, je vous prie, les assurances de mes parfaites considérations.

CH. MAU. TALLEYRAND.

(TRANSLATION)

*Paris, the 14 Germinal, 6th year of the French Republic,
one and indivisible [3d April, 1798.]*

*The Minister of Foreign Relations to Mr. Gerry, Envoy Extraordinary of the
United States of America, to the French Republic.*

I suppose, Sir, that Messrs. Pinckney and Marshall have thought it useful and proper, in consequence of the intimations given in the end of my note of the 28th Ventôse last, and the obstacle which their known opinions have interposed to the desired reconciliation, to quit the territory of the Republic. On this supposition I have the honor to point out to you the 5th or the 7th of this decade, to resume our reciprocal communications upon the interests of the French Republic and the United States of America.

Receive, I pray you, the assurances of my perfect consideration.

CH. MAU. TALLEYRAND.

Paris, 4th April, 1798, (Germinal 15, an 6.)

I HAD the honor, citizen Minister, of receiving your letter of the 14th Germinal (the 3d inst.) and Mr. Deutrement who delivered it, informed me, that it was intended to be shewn to Gen. Pinckney and Gen. Marshall.

Whilst my colleagues and myself, to whom the government of the United States have entrusted the affairs of the embassy, had a joint agency therein, I have carefully imparted to them all the propositions which you have requested, and the relative conferences; and to yourself our decisions thereon; regretting at the same time the unfortunate and embarrassing circumstances which imposed on me this disagreeable task. But as by the tenor of your letter it is now expected, that they will quit the territory of the French Republic, it will be impossible for me to be the medium of, or to take any measures which will be painful to my colleagues, or not to afford them all the assistance in my power; and it would be moreover inconsistent with the line of conduct which you well know, citizen Minister, I have uniformly observed for removing the unfavourable impressions which existed on the part of this government against them: indeed in our last letter there is a conditional application for passports, which, as it appears to me supercedes the necessity of a hint to them, on this subject; and General Marshall is waiting impatiently for an answer to that part of it which respects a letter of safe-conduct for the vessel, in which he and his suite may take passage for the United States, to determine whether he shall embark from France or Great Britain; but the unfortunate situation of General Pinckney, with respect to the critical state of his daughter's health renders it utterly impossible for him to depart under existing circumstances.

You have proposed, citizen Minister, the 5th or 7th of this decade for me to resume (*repandre*) our reciprocal communications upon the interests of the French Republic and of the United States. The reciprocal communications, which we have had, were such only as I have alluded to in the beginning of this letter, unless your proposition accompanied with an injunction of secrecy, for me to treat separately, is considered in this light. To resume this subject will be unavailing, because the measure, for the reasons which I then urged, is utterly impracticable. I can only then confer informally and unaccredited on any subject respecting our mission, and communicate to the government of the United States the result of such conferences, being in my individual capacity unauthorized to give them an official stamp. Nevertheless every measure in my power, and in conformity with the duty I owe my country, shall be zealously pursued, to restore harmony and a cordial friendship between the two Republics. I had the honour of calling on you last evening for the purpose of making this communication verbally, but as you were absent, to prevent misconceptions I have thought it best to reduce it to writing.

Accept I pray you, Citizen Minister,
the assurances of my perfect esteem and respect.

To the Minister of Foreign Affairs }
of the French Republic.

To Charles Cotesworth Pinckney, John Marshall and Elbridge Gerry, Esquires, Envoys extraordinary and Ministers plenipotentiary from the United States of America to the French Republic.

GENTLEMEN,

ON the 4th instant came to hand your first dispatches since you arrived at Paris ; these were your numbers 1, 4, and 5 ; and on the 6th instant your numbers 2 and 3 were received. On the 5th, your number 5, dated the 8th of January, and a translation of the message of January 4th from the Directory to the Council of Five Hundred, were laid before Congress. In this letter you "repeat, that there exists no hope of your being officially received by that government, or that the objects of your mission will be in any way accomplished." This opinion is sanctioned by the whole tenor of your communications ; and we trust that soon after the date of your number 5, you closed your mission by demanding passports to leave the territories of the French Republic.

An official copy of your letters of credence having been delivered to the Minister for Foreign Affairs, and by him laid before the Directory, they were sufficiently informed of the great objects of your mission ; and considering that you were an extraordinary delegation from an independent nation, you had a right to expect a prompt and respectful reception. The fair and honourable views of the American government, which dictated your appointment and your powers, entitled you to expect the early appointment of a commission by the French government, with equal powers, to negotiate on all the matters in controversy between them. Had the French government been influenced by similar views, the objects of your mission would long since have been accomplished, to the advantage and peace of both nations. But instead of coming forward on such equal and proper ground, they have treated you, and through you your country, with extreme neglect.

Under these circumstances, the President presumes that you have long since quitted Paris and the French dominions ; yet, actuated as you were with an ardent desire to preserve peace, which you knew would be so grateful to your country ; and having for this object manifested unexampled patience, and submitted to a series of mortifications ; as you also proposed to make one more direct attempt, subsequent to the date of your last letter, to draw the French government to an open negotiation ; there is a bare possibility that this last effort may have succeeded :—The President therefore thinks it proper to direct—

1. That if you are in treaty, with persons duly authorized by the Directory, on the subjects of your mission, then you are to remain and expedite the completion of the treaty, if it should not have been concluded. Before this letter gets to hand, you will have ascertained whether the negotiation is or is not conducted with candour on the part of the French government : and if you shall have

discovered a clear design to procrastinate, you are to break off the negociation, demand your passports, and return. For you will consider that *suspense* is ruinous to the essential interests of your country.

2. That if on the receipt of this letter, you shall not have been received, or, whether received or not, if you shall not be in treaty with persons duly authorized by the Directory, with full and equal powers, you are to demand your passports and return.

3. In no event is a treaty to be purchased with money, by loan or otherwise. There can be no safety in a treaty so obtained. A loan to the Republic would violate our neutrality : and a *douceur* to the men now in power, might by their successors be urged as a reason for annulling the treaty, or as a precedent for further and repeated demands.

It is proper to apprise you, that a motion has been made in the Senate, and will doubtless be repeated in the House of Representatives, to desire the President to lay before them your communications ; and he will probably be under the necessity of doing it : only withholding the two names which you promised should in no event be made public.

I have the honour to be,
with great respect,
Gentlemen,
your obedient servant,

TIMOTHY PICKERING.

Department of State, Philadelphia, }
March 23d, 1798.

afforded a clear design to understand, you are to break off the
negotiation, demand your passport, and return. For you will
consider that the only way is to return to the original interest of your
country.

2. That if on the receipt of this letter, you shall not have been
received, or whether received or not, if you shall not be in treaty
with the British authority, by the 10th day, with all the
powers, you are to demand your passport and return.

3. In no event is a treaty to be purchased with money, by loan
or otherwise. A treaty can be no treaty in a treaty to obtain. A
treaty to the British authority, would violate our neutrality, and a demand
to return now in power, might by the British authority be seized as a reason
for annulling the treaty, or as a pretext for further and ex-
torted demands.

It is proper to observe, that a treaty is not to be made in the
Secret, and will doubtless be recorded in the House of Commons.
It is to be observed, that the British authority is not to be
demanded; and he will probably be under the necessity of doing it
only withholding the two names which you promised should in no
event be made public.

I am, Sir, the most
with great respect,
Your obedient servant,
Gentleman.

TIMOTHY PICKERING

Department of State, Philadelphia
March 23, 1783

